

## FIFTY-NINTH DAY

Tuesday, May 2, 2006

The Senate of the Twenty-Third Legislature of the State of Hawaii, Regular Session of 2006, convened at 10:21 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by Mr. Kent Anderson, Family Promise of Hawaii, after which the Roll was called showing all Senators present.

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

## MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 571 to 578) were read by the Clerk and were disposed of as follows:

Gov. Msg. No. 571, dated April 6, 2006, transmitting the Department of Transportation's Annual Report for Fiscal Year Ending June 30, 2005, was placed on file.

Gov. Msg. No. 572, dated April 13, 2006, transmitting the Employee's Retirement System's Comprehensive Annual Financial Report for Fiscal Year Ended June 30, 2005, was placed on file.

Gov. Msg. No. 573, dated April 25, 2006, transmitting the Foreign-Trade Zone No. 9's Annual Report to the Foreign-Trade Zones Board for Federal Fiscal Year Ending September 30, 2005, was placed on file.

Gov. Msg. No. 574, informing the Senate that on April 28, 2006, she signed into law House Bill No. 2346 as Act 51, entitled: "MAKING AN EMERGENCY APPROPRIATION FOR DEPARTMENT OF EDUCATION ELECTRICITY," was placed on file.

Gov. Msg. No. 575, informing the Senate that on April 28, 2006, she signed into law House Bill No. 2273 as Act 52, entitled: "MAKING EMERGENCY APPROPRIATIONS FOR RISK MANAGEMENT," was placed on file.

Gov. Msg. No. 576, advising the Senate of the withdrawal of the nomination of PAUL K.W. AU to the Hawaii Labor Relations Board, under Gov. Msg. No. 405, dated April 13, 2006, was placed on file.

In compliance with Gov. Msg. No. 576, the nomination listed under Gov. Msg. No. 405 was returned.

Gov. Msg. No. 577, advising the Senate of the withdrawal of the nomination of CHALENE "CHA" MAE KU'UPUAALA THOMPSON to the Board of Directors of the Hawaii Tourism Authority, under Gov. Msg. No. 411, dated April 13, 2006, was placed on file.

In compliance with Gov. Msg. No. 577, the nomination listed under Gov. Msg. No. 411 was returned.

Gov. Msg. No. 578, advising the Senate of the withdrawal of the nomination of RAMON K. SY to the Board of Directors of the Hawaii Health Systems Corporation, under Gov. Msg. No. 464, dated April 19, 2006, was placed on file.

In compliance with Gov. Msg. No. 578, the nomination listed under Gov. Msg. No. 464 was returned.

## HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 847 to 849) were read by the Clerk and were placed on file:

Hse. Com. No. 847, informing the Senate that the Speaker on April 28, 2006, made the following changes to the conferees on the following bill:

S.B. No. 3205, S.D. 2 (H.D. 1):

Changed Representative Carroll from a co-chair to a manager.

Added Representative Yamane as a co-chair.

Hse. Com. No. 848, informing the Senate that the Speaker on April 28, 2006, made the following changes to the conferees on the following bill:

S.B. No. 475, S.D. 2 (H.D. 1):

Discharged Representative Carroll.

Added Representative Yamane as a co-chair.

Hse. Com. No. 849, informing the Senate that the Speaker on April 28, 2006, made the following changes to the conferees on the following bills:

H.B. No. 2961, H.D. 1 (S.D. 1):

Discharged Representative Takumi as a co-chair.

Added Representative Berg as a co-chair.

H.B. No. 3115, H.D. 2 (S.D. 2):

Discharged Representative Morita as a co-chair.

Discharged Representative Caldwell.

S.B. No. 2956, S.D. 2 (H.D. 2):

Discharged Representative Takumi as a co-chair.

Added Representative Berg as a co-chair.

## CONFERENCE COMMITTEE REPORTS

Senator Fukunaga, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House to S.B. No. 2546, S.D. 1, presented a report (Conf. Com. Rep. No. 238-06) recommending that S.B. No. 2546, S.D. 1, H.D. 2, as amended in C.D. 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 238-06 and S.B. No. 2546, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ECONOMIC DEVELOPMENT," was deferred for a period of 48 hours.

Senator Chun Oakland, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate to H.B. No. 2043, H.D. 2, presented a report (Conf. Com. Rep. No. 239-06) recommending that H.B. No. 2043, H.D. 2, S.D. 3, as amended in C.D. 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 239-06 and H.B. No. 2043, H.D. 2, S.D. 3, C.D. 1, entitled: "A BILL

FOR AN ACT RELATING TO MEDICAID," was deferred for a period of 48 hours.

Senator Chun Oakland, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate to H.B. No. 2258, H.D. 1, presented a report (Conf. Com. Rep. No. 240-06) recommending that H.B. No. 2258, H.D. 1, S.D. 2, as amended in C.D. 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 240-06 and H.B. No. 2258, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HUMAN SERVICES," was deferred for a period of 48 hours.

Senator Kokubun, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate to H.B. No. 2878, H.D. 1, presented a report (Conf. Com. Rep. No. 241-06) recommending that H.B. No. 2878, H.D. 1, S.D. 1, as amended in C.D. 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 241-06 and H.B. No. 2878, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL PURPOSE REVENUE BONDS TO ASSIST TRADEWINDS FOREST PRODUCTS, LLC," was deferred for a period of 48 hours.

Senator Kokubun, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate to H.B. No. 2806, H.D. 1, presented a report (Conf. Com. Rep. No. 242-06) recommending that H.B. No. 2806, H.D. 1, S.D. 2, as amended in C.D. 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 242-06 and H.B. No. 2806, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SUSTAINABILITY," was deferred for a period of 48 hours.

Senator Menor, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate to H.B. No. 3036, H.D. 1, presented a report (Conf. Com. Rep. No. 243-06) recommending that H.B. No. 3036, H.D. 1, S.D. 2, as amended in C.D. 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 243-06 and H.B. No. 3036, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONTRACTS," was deferred for a period of 48 hours.

Senator Menor, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate to H.B. No. 3118, H.D. 1, presented a report (Conf. Com. Rep. No. 244-06) recommending that H.B. No. 3118, H.D. 1, S.D. 1, as amended in C.D. 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 244-06 and H.B. No. 3118, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CORPORATIONS," was deferred for a period of 48 hours.

Senator Espero, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate to H.B. No. 3261, H.D. 1, presented a report (Conf. Com. Rep. No. 245-06) recommending that H.B. No. 3261, H.D. 1, S.D. 2, as amended in C.D. 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 245-06 and H.B. No. 3261, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INGENUITY CORPORATION CHARTER," was deferred for a period of 48 hours.

Senator Fukunaga, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate to H.B. No. 3060, H.D. 1, presented a report (Conf. Com. Rep. No. 246-06) recommending that H.B. No. 3060, H.D. 1, S.D. 2, as amended in C.D. 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 246-06 and H.B. No. 3060, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HIGH TECHNOLOGY," was deferred for a period of 48 hours.

Senator Fukunaga, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate to H.B. No. 2419, H.D. 1, presented a report (Conf. Com. Rep. No. 247-06) recommending that H.B. No. 2419, H.D. 1, S.D. 3, as amended in C.D. 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 247-06 and H.B. No. 2419, H.D. 1, S.D. 3, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," was deferred for a period of 48 hours.

Senator Taniguchi, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate to H.B. No. 957, H.D. 1, presented a report (Conf. Com. Rep. No. 248-06) recommending that H.B. No. 957, H.D. 1, S.D. 1, as amended in C.D. 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 248-06 and H.B. No. 957, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," was deferred for a period of 48 hours.

#### STANDING COMMITTEE REPORTS

Senator Kokubun, for the majority of the Committee on Water, Land, and Agriculture, presented a report (Stand. Com. Rep. No. 3826) recommending that the Senate not advise and consent to the nomination of FRANK DE LUZ III to the Board of Land and Natural Resources, in accordance with Gov. Msg. No. 428.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 3826 and Gov. Msg. No. 428 was deferred until Thursday, May 4, 2006.

Senator Kokubun, for the Committee on Water, Land, and Agriculture, presented a report (Stand. Com. Rep. No. 3827) recommending that the Senate not advise and consent to the nomination of ALMA A. CABERTO to the Land Use Commission, in accordance with Gov. Msg. No. 473.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 3827 and Gov. Msg. No. 473 was deferred until Thursday, May 4, 2006.

At 10:28 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:45 o'clock a.m.

**ORDER OF THE DAY**

**ADVISE AND CONSENT**

**MATTER DEFERRED FROM THURSDAY, APRIL 27, 2006**

Stand. Com. Rep. No. 3763 (Gov. Msg. Nos. 318 and 366):

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

The Senate reconvened at 11:48 o'clock a.m.

By unanimous consent, action on Stand. Com. Rep. No. 3763 and Gov. Msg. Nos. 318 and 366 was deferred until Thursday, May 4, 2006.

**ADVISE AND CONSENT**

At 11:49 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:51 o'clock a.m.

Stand. Com. Rep. No. 3773 (Gov. Msg. Nos. 381, 382, 383, 384, 385, 386 and 387):

Senator Baker moved that Stand. Com. Rep. No. 3773 be received and placed on file, seconded by Senator Chun Oakland and carried.

Senator Baker then moved that the Senate advise and consent to the nominations to the State Council on Developmental Disabilities of the following:

JOAN BELLARD, term to expire June 30, 2010 (Gov. Msg. No. 381);

NAOMI S. GROSSMAN, term to expire June 30, 2010 (Gov. Msg. No. 382);

BERNADETTE LUCY KELIIAA, term to expire June 30, 2007 (Gov. Msg. No. 383);

JEAN S. KIYABU, term to expire June 30, 2010 (Gov. Msg. No. 384);

PATRICIA A. NISHIMOTO, term to expire June 30, 2008 (Gov. Msg. No. 385);

MICHAEL D. TADA, term to expire June 30, 2008 (Gov. Msg. No. 386); and

J. CURTIS TYLER III, term to expire June 30, 2010 (Gov. Msg. No. 387),

seconded by Senator Chun Oakland.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3774 (Gov. Msg. Nos. 429 and 430):

Senator Kokubun moved that Stand. Com. Rep. No. 3774 be received and placed on file, seconded by Senator Hooser and carried.

Senator Kokubun then moved that the Senate advise and consent to the nominations to the Board of Land and Natural Resources of the following:

JERRY EDLAO, term to expire June 30, 2009 (Gov. Msg. No. 429); and

SAMUEL M. GON III, term to expire June 30, 2009 (Gov. Msg. No. 430),

seconded by Senator Hooser.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3775 (Gov. Msg. No. 432):

Senator Kokubun moved that Stand. Com. Rep. No. 3775 be received and placed on file, seconded by Senator Hooser and carried.

Senator Kokubun then moved that the Senate advise and consent to the nomination of ANDREW K. ARCE to the Molokai Irrigation System Water Users Advisory Board, term to expire June 30, 2009, seconded by Senator Hooser.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3776 (Gov. Msg. Nos. 474 and 475):

Senator Kokubun moved that Stand. Com. Rep. No. 3776 be received and placed on file, seconded by Senator Hooser and carried.

Senator Kokubun then moved that the Senate advise and consent to the nominations to the Land Use Commission of the following:

NICHOLAS W. TEVES JR., term to expire June 30, 2009 (Gov. Msg. No. 474); and

REUBEN S.F. WONG, term to expire June 30, 2010 (Gov. Msg. No. 475),

seconded by Senator Hooser.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3778 (Gov. Msg. Nos. 441 and 442):

Senator Inouye moved that Stand. Com. Rep. No. 3778 be received and placed on file, seconded by Senator Espero and carried.

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

LAURENCE I. BALTER, term to expire June 30, 2010 (Gov. Msg. No. 441); and

PETE G. PASCUA JR., term to expire June 30, 2010 (Gov. Msg. No. 442),

seconded by Senator Espero.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3779 (Gov. Msg. Nos. 444 and 493):

Senator Kokubun moved that Stand. Com. Rep. No. 3779 be received and placed on file, seconded by Senator Hooser and carried.

Senator Kokubun then moved that the Senate advise and consent to the nominations to the Hawaii Community Development Authority (HCDA) of the following:

AMANDA S. CHANG-KWAK, term to expire June 30, 2010 (Gov. Msg. No. 444); and

C. SCOTT BRADLEY, term to expire June 30, 2010 (Gov. Msg. No. 493),

seconded by Senator Hooser.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3780 (Gov. Msg. Nos. 495 and 496):

Senator Inouye moved that Stand. Com. Rep. No. 3780 be received and placed on file, seconded by Senator Espero and carried.

Senator Inouye then moved that the Senate advise and consent to the nominations to the State Highway Safety Council of the following:

RON J. FLEET, term to expire June 30, 2010 (Gov. Msg. No. 495); and

RICHARD E. VELAZQUEZ, term to expire June 30, 2010 (Gov. Msg. No. 496),

seconded by Senator Espero.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3781 (Gov. Msg. Nos. 506, 507 and 508):

Senator Inouye moved that Stand. Com. Rep. No. 3781 be received and placed on file, seconded by Senator Espero and carried.

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

EUGENE A. H. MAGNIER M.D., term to expire June 30, 2010 (Gov. Msg. No. 506); and

LEO MAHER MD, MHA, FAAN, terms to expire June 30, 2006, and June 30, 2010 (Gov. Msg. Nos. 507 and 508),

seconded by Senator Espero.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3782 (Gov. Msg. Nos. 512 and 513):

Senator Inouye moved that Stand. Com. Rep. No. 3782 be received and placed on file, seconded by Senator Espero and carried.

Senator Inouye then moved that the Senate advise and consent to the nominations to the Procurement Policy Board of the following:

LESLIE S. CHINEN, term to expire June 30, 2009 (Gov. Msg. No. 512); and

DARYLE ANN HORN, BSN, CWS, term to expire June 30, 2009 (Gov. Msg. No. 513),

seconded by Senator Espero.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3783 (Gov. Msg. No. 406):

Senator Kanno moved that Stand. Com. Rep. No. 3783 be received and placed on file, seconded by Senator Ihara and carried.

Senator Kanno then moved that the Senate advise and consent to the nomination of SARAH REIKO HIRAKAMI to the Hawaii Labor Relations Board, term to expire June 30, 2012, seconded by Senator Ihara.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3784 (Gov. Msg. No. 320):

Senator Kanno moved that Stand. Com. Rep. No. 3784 be received and placed on file, seconded by Senator Ihara and carried.

Senator Kanno then moved that the Senate advise and consent to the nomination of SANDRA YAHIRO to the Board of Trustees of the Deferred Compensation Plan, term to expire June 30, 2010, seconded by Senator Ihara.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3785 (Gov. Msg. No. 443):

Senator Hee moved that Stand. Com. Rep. No. 3785 be received and placed on file, seconded by Senator Inouye and carried.

Senator Hee then moved that the Senate advise and consent to the nomination of MARLENE MARIE HAPAI PH.D. to the

Board of Regents of the University of Hawaii, term to expire June 30, 2007, seconded by Senator Inouye.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3786 (Gov. Msg. No. 477):

Senator Hee moved that Stand. Com. Rep. No. 3786 be received and placed on file, seconded by Senator Inouye and carried.

Senator Hee then moved that the Senate advise and consent to the nomination of JAMES E. HASTINGS to the Hawaii Medical Education Council, term to expire June 30, 2007, seconded by Senator Inouye.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3787 (Gov. Msg. Nos. 480, 481, 482, 509 and 510):

Senator Hee moved that Stand. Com. Rep. No. 3787 be received and placed on file, seconded by Senator Inouye and carried.

Senator Hee then moved that the Senate advise and consent to the nominations to the Hawaii Commission for National and Community Service of the following:

JUNE LEE, term to expire, June 30, 2010 (Gov. Msg. No. 480);

BESSIE J. T. LIMPE, term to expire June 30, 2010 (Gov. Msg. No. 481);

MARY "NEVA" AGGRENEVA REGO, term to expire June 30, 2010 (Gov. Msg. No. 482);

STACY STAN KAWAI HIGA, term to expire June 30, 2010 (Gov. Msg. No. 509); and

BRYSEN CRAIG POULTON, term to expire June 30, 2010 (Gov. Msg. No. 510),

seconded by Senator Inouye.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3788 (Gov. Msg. Nos. 485, 486 and 487):

Senator Hee moved that Stand. Com. Rep. No. 3788 be received and placed on file, seconded by Senator Inouye and carried.

Senator Hee then moved that the Senate advise and consent to the nominations to the Center for Nursing Advisory Board of the following:

DALE M. ALLISON PHD, APRN, FAAN, term to expire June 30, 2010 (Gov. Msg. No. 485);

JOAN ANNE CRAFT, term to expire June 30, 2008 (Gov. Msg. No. 486); and

VICKY K POLAND, term to expire June 30, 2007 (Gov. Msg. No. 487),

seconded by Senator Inouye.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3789 (Gov. Msg. Nos. 490 and 491):

Senator Hee moved that Stand. Com. Rep. No. 3789 be received and placed on file, seconded by Senator Inouye and carried.

Senator Hee then moved that the Senate advise and consent to the nominations to the Board of Directors of the Research Corporation of the University of Hawaii of the following:

SHANLYN A.S. PARK, term to expire June 30, 2010 (Gov. Msg. No. 490); and

DONN MASAO TAKAKI, term to expire June 30, 2010 (Gov. Msg. No. 491),

seconded by Senator Inouye.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3792 (Gov. Msg. No. 310):

Senator Kanno moved that Stand. Com. Rep. No. 3792 be received and placed on file, seconded by Senator Ihara and carried.

Senator Kanno then moved that the Senate advise and consent to the nomination of ROLAND QUOK FONG THOM to the Labor and Industrial Relations Appeals Board, term to expire June 30, 2010, seconded by Senator Ihara.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3793 (Gov. Msg. No. 311):

Senator Kanno moved that Stand. Com. Rep. No. 3793 be received and placed on file, seconded by Senator Ihara and carried.

Senator Kanno then moved that the Senate advise and consent to the nomination of DAVID ALEXANDER PENDLETON to the Labor and Industrial Relations Appeals Board, term to expire June 30, 2016, seconded by Senator Ihara.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3794 (Gov. Msg. Nos. 358, 359, 408 and 409):

Senator Kim moved that Stand. Com. Rep. No. 3794 be received and placed on file, seconded by Senator Nishihara and carried.

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

MICHAEL K. KOBAYASHI, term to expire June 30, 2010 (Gov. Msg. No. 358);

JOHN J. TONER, term to expire June 30, 2010 (Gov. Msg. No. 359);

KELVIN M. BLOOM, term to expire June 30, 2010 (Gov. Msg. No. 408); and

PATRICIA A. EWING, term to expire June 30, 2010 (Gov. Msg. No. 409),

seconded by Senator Nishihara.

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

Ayes, 25. Noes, none.

At 11:53 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:55 o'clock a.m.

Gov. Msg. No. 411:

By unanimous consent, Gov. Msg. No. 411 was recommitted to the Committee on Tourism.

Stand. Com. Rep. No. 3795 (Gov. Msg. No. 421):

Senator Menor moved that Stand. Com. Rep. No. 3795 be received and placed on file, seconded by Senator Baker and carried.

Senator Menor then moved that the Senate advise and consent to the nomination of GERALD YAMADA to the Contractors License Board, term to expire June 30, 2010, seconded by Senator Baker.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3796 (Gov. Msg. Nos. 422 and 423):

Senator Menor moved that Stand. Com. Rep. No. 3796 be received and placed on file, seconded by Senator Baker and carried.

Senator Menor then moved that the Senate advise and consent to the nominations to the Board of Dental Examiners of the following:

JASON WADE KAMEZAWA, term to expire June 30, 2009 (Gov. Msg. No. 422); and

NOLAN Y. KIDO, term to expire June 30, 2010 (Gov. Msg. No. 423),

seconded by Senator Baker.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3797 (Gov. Msg. Nos. 424 and 425):

Senator Menor moved that Stand. Com. Rep. No. 3797 be received and placed on file, seconded by Senator Baker and carried.

Senator Menor then moved that the Senate advise and consent to the nominations to the Board of Electricians and Plumbers of the following:

MORRIS H. KANESHIRO, term to expire June 30, 2010 (Gov. Msg. No. 424); and

LINDSEY JOHN KIMURA, term to expire June 30, 2010 (Gov. Msg. No. 425),

seconded by Senator Baker.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3798 (Gov. Msg. Nos. 426 and 427):

Senator Menor moved that Stand. Com. Rep. No. 3798 be received and placed on file, seconded by Senator Baker and carried.

Senator Menor then moved that the Senate advise and consent to the nominations to the Elevator Mechanics Licensing Board of the following:

KENNETH M. HOVANIAN, term to expire June 30, 2010 (Gov. Msg. No. 426); and

JUDITH A. JORDAN, term to expire June 30, 2009 (Gov. Msg. No. 427),

seconded by Senator Baker.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3799 (Gov. Msg. Nos. 433, 434, 435 and 436):

Senator Menor moved that Stand. Com. Rep. No. 3799 be received and placed on file, seconded by Senator Baker and carried.

Senator Menor then moved that the Senate advise and consent to the nominations to the Real Estate Commission of the following:

ANNETTE AIONA R, ABR, term to expire June 30, 2010 (Gov. Msg. No. 433);

WILLIAM STANLEY CHEE, term to expire June 30, 2009 (Gov. Msg. No. 434);

FRANCES ALLISON TORRE GENDRANO, term to expire June 30, 2010 (Gov. Msg. No. 435); and

MARK SUIISO, term to expire June 30, 2010 (Gov. Msg. No. 436),

seconded by Senator Baker.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3800 (Gov. Msg. No. 437):

Senator Menor moved that Stand. Com. Rep. No. 3800 be received and placed on file, seconded by Senator Baker and carried.

Senator Menor then moved that the Senate advise and consent to the nomination of CHRISTINA S. JACKSON to the Board of Speech Pathology and Audiology, term to expire June 30, 2007, seconded by Senator Baker.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3801 (Gov. Msg. Nos. 456, 457 and 458):

Senator Menor moved that Stand. Com. Rep. No. 3801 be received and placed on file, seconded by Senator Baker and carried.

Senator Menor then moved that the Senate advise and consent to the nominations to the Board of Professional Engineers, Architects, Surveyors, and Landscape Architects of the following:

NORMAN G. Y. HONG, term to expire June 30, 2010 (Gov. Msg. No. 456);

CAROL H. IGARASHI, term to expire June 30, 2010 (Gov. Msg. No. 457); and

HOWARD K. C. LAU, term to expire June 30, 2010 (Gov. Msg. No. 458),

seconded by Senator Baker.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3802 (Gov. Msg. Nos. 478 and 479):

Senator Menor moved that Stand. Com. Rep. No. 3802 be received and placed on file, seconded by Senator Baker and carried.

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

BEN KAMARUDIN AZMAN M.D., term to expire June 30, 2010 (Gov. Msg. No. 478); and

DANNY MORITO TAKANISHI JR., term to expire June 30, 2010 (Gov. Msg. No. 479),

seconded by Senator Baker.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3803 (Gov. Msg. Nos. 483 and 484):

Senator Menor moved that Stand. Com. Rep. No. 3803 be received and placed on file, seconded by Senator Baker and carried.

Senator Menor then moved that the Senate advise and consent to the nominations to the Board of Examiners in Naturopathy of the following:

MICHELE M. IKEDA, term to expire June 30, 2007 (Gov. Msg. No. 483); and

DAVID R. KERN, term to expire June 30, 2010 (Gov. Msg. No. 484),

seconded by Senator Baker.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3804 (Gov. Msg. No. 488):

Senator Menor moved that Stand. Com. Rep. No. 3804 be received and placed on file, seconded by Senator Baker and carried.

Senator Menor then moved that the Senate advise and consent to the nomination of JOHN EDWARD COLE to the Public Utilities Commission (PUC), term to expire June 30, 2012, seconded by Senator Baker.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3805 (Gov. Msg. No. 505):

Senator Menor moved that Stand. Com. Rep. No. 3805 be received and placed on file, seconded by Senator Baker and carried.

Senator Menor then moved that the Senate advise and consent to the nomination of RHONDA C. SCOTT to the Board of Massage Therapy, term to expire June 30, 2010, seconded by Senator Baker.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3806 (Gov. Msg. Nos. 514 and 516):

Senator Menor moved that Stand. Com. Rep. No. 3806 be received and placed on file, seconded by Senator Baker and carried.

Senator Menor then moved that the Senate advise and consent to the nominations to the Hawaii Public Housing Administration (PHA) of the following:

CAROL R. IGNACIO, term to expire June 30, 2009 (Gov. Msg. No. 514); and

MATTIE A. YOSHIOKA, term to expire June 30, 2010 (Gov. Msg. No. 516),

seconded by Senator Baker.

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

Ayes, 25. Noes, none.

Gov. Msg. No. 515:

By unanimous consent, action on Gov. Msg. No. 515 was deferred until Thursday, May 4, 2006.

Stand. Com. Rep. No. 3807 (Gov. Msg. No. 525):

Senator Menor moved that Stand. Com. Rep. No. 3807 be received and placed on file, seconded by Senator Baker and carried.

Senator Menor then moved that the Senate advise and consent to the nomination of LIONEL Y. TOKIOKA to the Board of Directors of the Hawaii Hurricane Relief Fund, term to expire June 30, 2009, seconded by Senator Baker.

Senator Taniguchi rose and said:

"Mr. President, I have comments in support of Gov. Msg. No. 525 on Mr. Lionel Tokioka that I'd like to have inserted into the Journal."

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

"Mr. President, I have known Lionel Tokioka for many years. He was one of my former bosses at International Savings and later City Bank. Mr. Tokioka is not new to public service. He served with distinction on the Judicial Selection Commission. Mr. Tokioka's financial expertise has assisted not only his banks but numerous organizations as well, including the Aloha United Way, the University of Hawaii Foundation, Kuakini Medical Center, the Hawaii Theater for Youth and many others. I know Mr. Tokioka will be a tremendous asset to the Board of Directors of the Hawaii Hurricane Relief Fund. I strongly support his nomination. Thank you Mr. President."

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3808 (Gov. Msg. No. 420):

Senator Espero moved that Stand. Com. Rep. No. 3808 be received and placed on file, seconded by Senator Fukunaga and carried.

Senator Espero then moved that the Senate advise and consent to the nomination of JASON T. OKUHAMA to the Board of Directors of the Aloha Tower Development Corporation, term to expire June 30, 2009, seconded by Senator Fukunaga.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3809 (Gov. Msg. Nos. 438, 439 and 440):

Senator Espero moved that Stand. Com. Rep. No. 3809 be received and placed on file, seconded by Senator Fukunaga and carried.

Senator Espero then moved that the Senate advise and consent to the nominations to the Stadium Authority of the following:

KATHRYN WHANG INOUE, term to expire June 30, 2010 (Gov. Msg. No. 438);

KENNETH B. MARCUS ESQ., term to expire June 30, 2010 (Gov. Msg. No. 439); and

ALAN S. TAMAYOSE, term to expire June 30, 2010 (Gov. Msg. No. 440),

seconded by Senator Fukunaga.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3810 (Gov. Msg. Nos. 518 and 519):

Senator Espero moved that Stand. Com. Rep. No. 3810 be received and placed on file, seconded by Senator Fukunaga and carried.

Senator Espero then moved that the Senate advise and consent to the nomination of RICHARD SCHNITZLER to the Small Business Regulatory Review Board, terms to expire June 30, 2010, and June 30, 2006, seconded by Senator Fukunaga.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3811 (Gov. Msg. No. 336):

Senator Chun Oakland moved that Stand. Com. Rep. No. 3811 be received and placed on file, seconded by Senator Ihara and carried.

Senator Chun Oakland then moved that the Senate advise and consent to the nomination of LINDA ANN WATSON to the Statewide Council on Independent Living, term to expire June 30, 2009, seconded by Senator Ihara.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3812 (Gov. Msg. Nos. 351, 352 and 353):

Senator Chun Oakland moved that Stand. Com. Rep. No. 3812 be received and placed on file, seconded by Senator Ihara and carried.

Senator Chun Oakland then moved that the Senate advise and consent to the nominations to the State Rehabilitation Council of the following:



GENE R. DESCALZI, term to expire June 30, 2009 (Gov. Msg. No. 351);

DEBRA T. FARMER, term to expire June 30, 2009 (Gov. Msg. No. 352); and

NANCY G. KINGHORN, term to expire June 30, 2009 (Gov. Msg. No. 353),

seconded by Senator Ihara.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3813 (Gov. Msg. No. 388):

Senator Baker moved that Stand. Com. Rep. No. 3813 be received and placed on file, seconded by Senator Chun Oakland and carried.

Senator Baker then moved that the Senate advise and consent to the nomination of MALCOLM "MARK" M. GIBLIN to the Disability and Communication Access Board, term to expire June 30, 2009, seconded by Senator Chun Oakland.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3814 (Gov. Msg. Nos. 389 and 390):

Senator Baker moved that Stand. Com. Rep. No. 3814 be received and placed on file, seconded by Senator Chun Oakland and carried.

Senator Baker then moved that the Senate advise and consent to the nominations to the Drug Product Selection Board of the following:

LINDA D. CHIU MD, term to expire June 30, 2010 (Gov. Msg. No. 389); and

ANGEL BUNUAN RAMOS, term to expire June 30, 2009 (Gov. Msg. No. 390),

seconded by Senator Chun Oakland.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3815 (Gov. Msg. Nos. 447, 448, 449 and 450):

Senator Fukunaga moved that Stand. Com. Rep. No. 3815 be received and placed on file, seconded by Senator Ige and carried.

Senator Fukunaga then moved that the Senate advise and consent to the nominations to the State Foundation on Culture and the Arts Commission of the following:

MARY BEGIER, term to expire June 30, 2010 (Gov. Msg. No. 447);

PETER LARRY ROSEGG, terms to expire June 30, 2006, and June 30, 2010 (Gov. Msg. Nos. 448 and 449); and

LORI VOGEL THOMAS, term to expire June 30, 2010 (Gov. Msg. No. 450),

seconded by Senator Ige.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3816 (Gov. Msg. Nos. 471 and 472):

Senator Fukunaga moved that Stand. Com. Rep. No. 3816 be received and placed on file, seconded by Senator Ige and carried.

Senator Fukunaga then moved that the Senate advise and consent to the nominations to the King Kamehameha Celebration Commission of the following:

ADRIAN K. KAMALII, term to expire June 30, 2010 (Gov. Msg. No. 471); and

NORMAN M.U. NAKAMOTO, term to expire June 30, 2010 (Gov. Msg. No. 472),

seconded by Senator Ige.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3817 (Gov. Msg. Nos. 465, 466, 467 and 497):

Senator Fukunaga moved that Stand. Com. Rep. No. 3817 be received and placed on file, seconded by Senator Ige and carried.

Senator Fukunaga then moved that the Senate advise and consent to the nominations to the Hawaii Historic Places Review Board of the following:

KENNETH HAYS, term to expire June 30, 2008 (Gov. Msg. No. 465);

VIRGINIA DIANE MURISON, term to expire June 30, 2010 (Gov. Msg. No. 466);

JOHN A. PETERSON, term to expire June 30, 2010 (Gov. Msg. No. 467); and

WILLIAM DONALD SOUZA, term to expire June 30, 2010 (Gov. Msg. No. 497),

seconded by Senator Ige.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3818 (Gov. Msg. Nos. 451, 452 and 453):

Senator Baker moved that Stand. Com. Rep. No. 3818 be received and placed on file, seconded by Senator Chun Oakland and carried.

Senator Baker then moved that the Senate advise and consent to the nominations to the Policy Advisory Board for Elder Affairs of the following:

ELEANOR JEAN LLOYD, term to expire June 30, 2010 (Gov. Msg. No. 451);

HERBERT C. SHARP, term to expire June 30, 2010 (Gov. Msg. No. 452); and

MICHAEL BARRY SUMJA, term to expire June 30, 2010 (Gov. Msg. No. 453),

seconded by Senator Chun Oakland.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3819 (Gov. Msg. No. 463):

Senator Baker moved that Stand. Com. Rep. No. 3819 be received and placed on file, seconded by Senator Chun Oakland and carried.

Senator Baker then moved that the Senate advise and consent to the nomination of GAIL M. WALKER to the Health Planning Council, Hawaii County Subarea, term to expire June 30, 2008, seconded by Senator Chun Oakland.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3820 (Gov. Msg. Nos. 454, 455 and 494):

Senator Baker moved that Stand. Com. Rep. No. 3820 be received and placed on file, seconded by Senator Chun Oakland and carried.

Senator Baker then moved that the Senate advise and consent to the nominations to the Emergency Medical Services Advisory Committee of the following:

MARCIANO D. AQUINO, term to expire June 30, 2010 (Gov. Msg. No. 454);

RYAN ANDREW MCKNIGHT, term to expire June 30, 2010 (Gov. Msg. No. 455); and

SHAUNA V. TUOHY, term to expire June 30, 2009 (Gov. Msg. No. 494),

seconded by Senator Chun Oakland.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3821 (Gov. Msg. No. 476):

Senator Baker moved that Stand. Com. Rep. No. 3821 be received and placed on file, seconded by Senator Chun Oakland and carried.

Senator Baker then moved that the Senate advise and consent to the nomination of ALAN SERIKAWA to the Medical

Advisory Board, term to expire June 30, 2010, seconded by Senator Chun Oakland.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3822 (Gov. Msg. Nos. 459, 460, 461 and 462):

Senator Chun Oakland moved that Stand. Com. Rep. No. 3822 be received and placed on file, seconded by Senator Ihara and carried.

Senator Chun Oakland then moved that the Senate advise and consent to the nominations to the Commission on Fatherhood of the following:

BARRETT KEOKI AWAI, term to expire June 30, 2007 (Gov. Msg. No. 459);

MICHAEL R. DIAS, term to expire June 30, 2007 (Gov. Msg. No. 460);

MYRNA B. MURDOCH, term to expire June 30, 2007 (Gov. Msg. No. 461); and

SYLVIA H. L. YUEN PH.D, term to expire June 30, 2007 (Gov. Msg. No. 462),

seconded by Senator Ihara.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3823 (Gov. Msg. No. 361):

Senator Hee moved that Stand. Com. Rep. No. 3823 be received and placed on file, seconded by Senator Inouye and carried.

Senator Hee then moved that the Senate advise and consent to the nomination of JAMES J. C. HAYNES II to the Board of Regents of the University of Hawaii, term to expire June 30, 2010, seconded by Senator Inouye.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3824 (Gov. Msg. Nos. 498, 499, 500 and 502):

Senator Menor moved that Stand. Com. Rep. No. 3824 be received and placed on file, seconded by Senator Baker and carried.

Senator Menor then moved that the Senate advise and consent to the nominations to the Hawaii Housing Finance and Development Administration (HFD) of the following:

CHARLES G. KING, term to expire June 30, 2010 (Gov. Msg. No. 498);

BETTY LOU LARSON, term to expire June 30, 2009 (Gov. Msg. No. 499);

DAVID LAWRENCE, term to expire June 30, 2008 (Gov. Msg. No. 500); and

CHARLES A. STED, term to expire June 30, 2010 (Gov. Msg. No. 502),

seconded by Senator Baker.

Senator Kim rose in opposition to Gov. Msg. No. 502 and said:

“Mr. President, I rise in opposition to Gov. Msg. No. 502, the confirmation of Charles A. Sted to the Hawaii Housing Finance and Development Administration.

“Mr. President, the Housing and Community Development Corporation of Hawaii’s handling of the Kalihi Valley Homes, Hauiki Homes, and the nonexistent asset management study by the HCDCH has been pathetic. The oversight of the HCDCH clearly rests with the board. Mr. Sted is the chair of the HCDCH board and I have communicated with him, I’ve attended an HCDCH board meeting, I’ve met with Mr. Sted and the HCDCH executive director and still my attempts to get them to address some of these issues have been unsatisfactory.

“Specifically, during Mr. Sted’s tenure as the chair of the HCDCH board, the contractor walked off the Kalihi Valley Housing project in April of 2004 for nonpayment of hundreds of thousands of dollars. Director Aveiro kept promising payment in 30 days but never did. The contractor refused to return until they were paid and this went on for over six months. This delay meant that precious units remained vacant and tenants remained dislocated or homeless.

“With no resolution in sight, the CPH Committee scheduled a hearing on February 12, 2005. This prompted Director Aveiro to call an emergency meeting with the contractors the day before the hearing and again promised payment. Nevertheless, the contractor showed up at the hearing and shared with us the myriad of problems they were having with the HCDCH. As of today, almost two years since the walkout date, HCDCH still owes the contractor over a million dollars.

“I suspected then that the board had no clue as to what was going on regarding the Kalihi Valley Housing, so I sent a letter to Mr. Sted last September, 2005, stating, and I quote, ‘Finally, since the tone of your letter affirms that the board has been briefed and is clearly aware of the problems and delays of the Kalihi Valley Phase II Renovation Project and the outstanding change orders, please explain why, after the plethora of meetings, promises by the HCDCH, and concerns raised by the Senate, there still is an outstanding payment due to the prime contractor. Since you claim the board is aware of the problems, what steps, if any, is the board taking to rectify and ensure that these problems do not occur again,’ unquote.

“Phase II has been completed, members, but the contractor is still owed monies. Board minutes reveal that the board never addressed the problems at KVH and did not take steps to rectify it.

“At his confirmation hearing, Mr. Sted confirmed my suspicions that either he didn’t know about this or didn’t care about the problems at Kalihi Valley Homes since he didn’t have a clue that the HCDCH still owed the contractor over a million dollars.

“Another example, during his tenure, the Legislature adopted H.C.R. No. 214, requesting the Housing and Community Development Corporation of Hawaii to explore home ownership options and study the feasibility of implementing a

housing demonstration project at Hauiki Homes and other state owned and operated housing projects. Colleagues, this is their pitiful report to the Legislature in 2005. It is a 1¼-page report. And would you believe that this report for this House concurrent resolution was never reviewed or approved by the board? I don’t know if the board was even aware of this HCR. By Mr. Sted’s admission, he didn’t know that the board had the responsibility of reviewing this report to the Legislature. It was totally left up to the staff.

“The report states, and I quote, ‘On November 30, 2004, the HCDCH formally requested an extension of time to consider Kokua Legal Services’ letter of intent for KVH. The agency is undertaking an assessment management study which is anticipated to be concluded in the spring of 2005. Decisions regarding the sale of the HCDCH properties like Hauiki Homes will be made within the context of the study results.’ Despite this report to the Legislature and the CPH hearings, the board on June 16, 2005, with no asset management study results, disapproved the request to implement a housing demonstration project at Hauiki Homes. This decision was completely contrary to their conclusion statement of their report, and I quote, ‘The HCDCH generally supports home ownership. It strengthens families and communities. The HCDCH will continue to work with Kokua Legal Services to obtain the requested information and will make its decision in the context of the findings of its asset management study.’ This was totally disingenuous. They did not work with the Kokua Legal Services to get the information and they did not decide in the context of the asset management study since there is still no completed study as of today.

“So did they ever complete the asset management study? Of course not. Was money expended for their study? Yes, but don’t ask Linda Smith because she told us that no money was spent.

“In my letter dated May 12, 2005, to Mr. Sted, I stated, quote, ‘Contracts with the Navy for an asset management study for \$65,000 was entered into on January 25, 2005.’ A memo dated December 27, 2004, from Jeanie Hamilton states that HCDCH anticipates the task order will be executed in January 2005 and the work will be completed before April 2005. This was shared with the Senate CPH Committee on February 3, 2005, yet at the April 12<sup>th</sup> Senate CPH follow-up meeting, the director told the Committee that the asset management study was not yet complete with no definitive completion date. In further review of all of the 2005 board minutes, there appears to be no follow-up or monitoring by the board on this very important asset management study that kept Kokua Legal Services in limbo. It took Mr. Sted and the board until August – three months – to finally respond to my May 12<sup>th</sup> letter. Imagine, they put my letter on the board agenda but they never put the H.C.R. No. 214 on the agenda.

“On the issue of the asset management study he replies, and I quote, ‘I agree that the board has not taken adequate steps to follow-up and monitor the asset management study. Accordingly, I will appoint an asset management subcommittee at the August 2005 regular meeting to devote the needed attention to this important subject,’ and I repeat, ‘devote the needed attention to this important subject.’ Interestingly enough, on October 31, 2005, Director Aveiro in her response to me states, ‘The draft asset management report was submitted to the HCDCH in May 2005.’ I attended the June meeting and there was no mention of this draft report or the acceptance of this report. She goes on to say that ‘the final report was completed in July 2005. The board’s asset management subcommittee made up of Mr. Sted and Ms. Smith is currently reviewing the report and will make policy recommendations to the full board,’ unquote. Remember, in Mr. Sted’s August 3<sup>rd</sup>

letter to me he never even mentioned the final report was submitted to the board.

“So, let’s fast forward to last week Monday night at the confirmation hearing. When asked about the status of this report, Mr. Sted said he was unable to tell the Committee when the asset management study would be complete. It’s over a year late, members, and if Mr. Sted, who’s a member of this three-member subcommittee and the board chair, is clueless about this study, then this board has some serious leadership and management problems. Will somebody tell them that we have a housing shortage and that they need to be more diligent about their responsibilities! And yes, I realize that it’s a volunteer job, but if he doesn’t have the time or the passion, then he shouldn’t serve.

“I’m sorry, but as far as I’m concerned, Mr. Sted’s record on the HCDCH does not speak well to his confirmation and my examples are just a few of the horror stories – I’m sure there are more. For these reasons, I cannot in good conscience support Mr. Sted to the Hawaii Housing Finance and Development Board. Thank you.”

Senator Hee rose in opposition to Gov. Msg. No. 502 and said:

“Mr. President, I rise to speak against the nominee as well.

“Very quickly, Mr. President and colleagues, I have two very good friends who are contractors – one was the drywall contractor at Kalihi Valley Housing and the other was the plumbing subcontractor who also did the solar panels. The one complaint heard repeatedly over and over was, as subcontractors and small business people, they weren’t getting paid on time.

“So, for those reasons, I will vote against Mr. Sted as well.”

Senator Sakamoto rose in opposition to Gov. Msg. No. 502 and said:

“Mr. President, I rise in opposition as well.

“Every week I go up there to pick someone up at the Kam IV Housing and it’s just pathetic how long this project has dragged. Perhaps Mr. Sted isn’t the one on the job, perhaps there are project managers, perhaps it’s Ms. Aveiro, perhaps it’s other people, but the chairman of the board has an ability to improve things and apparently things have not improved, at least from my perspective, to the degree they should, Mr. President, so I encourage my colleagues to vote ‘no.’”

Senator English rose in opposition to Gov. Msg. No. 502 and said:

“Mr. President, I received a communication from the Hawaii Board of Realtors and my objections are contained in that letter, so I’m voting ‘no’ as well.”

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

At 12:10 o’clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:11 o’clock p.m.

Senator Hemmings rose on a point of order and said:

“Point of order, Mr. President.

“For purposes of accuracy and recordkeeping, could the clerk please tell us the vote on Gov. Msg. No. 502.”

The motion to advise and consent to the nominations of CHARLES G. KING, BETTY LOU LARSON and DAVID LAWRENCE was put by the Chair and carried on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

The motion to advise and consent to the nomination of CHARLES A. STED was put by the Chair and failed to carry on the following showing of Ayes and Noes:

Ayes, 11. Noes, 14 (Chun Oakland, English, Espero, Fukunaga, Hanabusa, Hee, Hooser, Ige, Kim, Kokubun, Nishihara, Sakamoto, Taniguchi, Tsutsui).

Stand. Com. Rep. No. 3825 (Gov. Msg. No. 405):

By unanimous consent, Stand. Com. Rep. No. 3825 and Gov. Msg. No. 405 were recommitted to the Committee on Labor.

### FINAL ADOPTION

S.C.R. No. 77, S.D. 2, H.D. 1:

On motion by Senator Baker, seconded by Senator Espero and carried, the Senate agreed to the amendments proposed by the House to S.C.R. No. 77, S.D. 2 and S.C.R. No. 77, S.D. 2, H.D. 1, entitled: “SENATE CONCURRENT RESOLUTION REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO CONDUCT TWO STUDIES OF RECOMMENDED PROCEDURES THAT WILL ENSURE THAT STATE-FUNDED HEALTH CARE PAYMENTS ADEQUATELY REIMBURSE PROVIDERS WHO PROVIDE SERVICES FOR, FIRST, MEDICAID OR QUEST RECIPIENTS AND, SECOND, FOR INJURED EMPLOYEES UNDER WORKERS COMPENSATION INSURANCE,” was Finally Adopted on the following showing of Ayes and Noes:

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

### ADOPTION OF RESOLUTIONS

#### MATTERS DEFERRED FROM FRIDAY, APRIL 28, 2006

Stand. Com. Rep. No. 3777 (S.R. No. 163):

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.R. No. 163, entitled: “SENATE RESOLUTION ENCOURAGING THE DEPARTMENT OF TRANSPORTATION, WITH COOPERATION FROM THE DEPARTMENT OF LAND AND NATURAL RESOURCES, TO ASSIST IN THE STATE AND NATIONAL POLICIES TO REDUCE RELIANCE UPON FOSSIL FUELS AND TO PROMOTE THE DEVELOPMENT OF AN ETHANOL INDUSTRY IN THE STATE OF HAWAII,” was adopted.

Stand. Com. Rep. No. 3790 (H.C.R. No. 320):

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and H.C.R. No. 320, entitled: “HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO HONOR THE FIRST MONDAY IN MAY AS HAWAII HISTORIC PRESERVATION AWARENESS DAY,” was adopted.

Stand. Com. Rep. No. 3791 (H.C.R. No. 218, H.D. 1):

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and H.C.R. No. 218, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE HIGH TECHNOLOGY DEVELOPMENT CORPORATION, UNIVERSITY OF HAWAII JOHN A. BURNS SCHOOL OF MEDICINE, CANCER RESEARCH CENTER OF HAWAII, DEPARTMENT OF EDUCATION, DEPARTMENT OF LAND AND NATURAL RESOURCES, THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY, AND KAMEHAMEHA SCHOOLS TO PLAN A TECHNOLOGY-BASED COLLABORATIVE PROJECT ON STATE LANDS, OR OTHER APPROPRIATE LANDS, IN KAKAAKO," was adopted.

#### FINAL READING

Conf. Com. Rep. No. 163-06 (H.B. No. 1900, H.D. 1, S.D. 1, C.D. 1):

Senator Taniguchi moved that Conf. Com. Rep. No. 163-06 be adopted and H.B. No. 1900, H.D. 1, S.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator English.

Senator Taniguchi rose in support of the measure and said:

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

"I have rather lengthy comments, so I think at this point I will have them inserted into the Journal in support."

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

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

"Mr. President, this measure is the supplemental budget bill and amends Act 178 of last year, the Executive Appropriations Act.

"Before speaking to the merits of this bill, I would like to thank all the people who made this Session a success for the Committee on Ways and Means.

"First, I would like to thank my staff – I think all of them did an incredible job this year, given the circumstances. I want them to know that I appreciate all the sacrifices that they made for this Committee to be successful.

"Second, I'd like to thank the WAM Committee members for all of their hard work and constructive input this year. While it was a struggle at times, I believe that each member of the Senate contributed to this final product, including yourself, Mr. President.

"I also want to thank House Finance Chair Dwight Takamine, for the tremendous support, cooperation and friendship he has afforded me over the years, especially these last six years as we headed our respective money Committees.

"Last, but not least, I want to thank my family for all their sacrifices so that I could continue to serve as WAM Chair these past six years, most especially for being the strength behind all of the tough decisions that I've had to make in my 26 years in office.

"Mr. President, though we had a healthy carryover balance and increases in revenues this year, it was a challenge ensuring

that those revenues were allocated wisely with thought given to future expenditures. I'm glad we had the opportunity to face the challenge that we did. We were forced to reevaluate many priorities and ask ourselves what our state government should look like and how it should operate. We took an approach, which increased expenditures, with the bulk of that increase going to our public schools, infrastructure, and to those in need.

"This budget represents a philosophy that government must provide for those who cannot provide for them selves – our children and those less fortunate.

"If you examine this budget as I have, you will see that general fund expenditures increased by over \$230 million. The majority of those expenditures will be going to the Department of Education, Human Services, Health, and the University of Hawaii. I believe that this Body is addressing public schools and those most in need in the most prudent and appropriate manner possible.

"This budget, as a component of our overall financial plan, is sound and it is fair as it provides the resources for those areas that should be of priority to our constituents. I believe this Body has done an outstanding job to conform our state government expenditures to our ability to afford it.

"While some may disagree, I believe that this Legislature should be proud of the fiscal decisions it has made as well as all others related to our financial plan. We have made the difficult choices in deciding how best to spend our increased revenues, but they are ones that I feel will best serve the interest of our people.

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

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

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

"I don't have comments to insert but I would like to articulate some of the things at least in regard to education that our good Ways and Means Chair, as well as all of the members have agreed to and hopefully pass, Mr. President.

"As we know, schools are important to us as well as the public. Mr. President, the Senator from Manoa and the Committee and this Body has put many good things into this bill and I'll just articulate on a few for education.

"Starting with the weighted student formula, some of us have had the opportunity to talk to our schools and librarians. There were counselors and other people who are in jeopardy of losing their positions who are concerned that Act 51 has caused their school to do something in terms of prioritizing their needs. In this budget that will pass, hopefully, \$20 million was put to the weighted student formula. In that measure, Mr. President, later on I'll be able to pass out a list that will show that the schools that were negatively affected by the previous committee on weights distribution of the available funds found many schools in the red or lacking at least the status quo of where they're at.

"My goal, Mr. President, or our goal should not be to have people who are in jeopardy just feel a sigh of relief and be retained because it's the principal and the school community council that will use the available funds, including this additional money to the schools to help them. High schools will receive 126,000 more dollars, middle schools 84,000 more dollars, elementary schools 63,000 more dollars, and the combination schools some vary in degree. Each school, based

on what's in this budget, will be in the black and no school will be in the red, at least in the first year as the weighted student formula moves forward.

"Again, this isn't just for people to breathe a sigh of relief. But as we know, Mr. President, the schools in one study have been short \$278 million, so this is a step in the right direction.

"The budget also includes \$2 million specifically for science textbooks, \$5.4 million for technology as well as human resource systems, and includes many other things, in particular, in coordination with the budget, some items are in the budget, some items are funded in bills. Perhaps I can address those later. I do want to say that the fix the schools bill which will be coming up later did put in \$160 million to renovate 95 schools that are 25 years and older. Some have already been renovated but this will bring many, many of our schools up to par and includes \$75 million in addition to that for repair and maintenance.

"As we know, the backlog was \$525 million as of September, and certainly with this addition, over \$100 million more should be reducing the back log. We hope as the money is released, and in particular some of these are general funds, it doesn't need to wait for the bond float, etc.

"Mr. President, I'd really like to thank all of those who helped make this come to this point, again especially the money Chair and the House side as well. Thank you, Mr. President."

Senator Hemmings rose in support and stated:

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

"Mr. President, I would like to add my accolades and gratitude and praise to the Senate Chairman of the Ways and Means Committee. It is always difficult. There's so many different interests that come to this Legislature looking for support. Setting priorities and oftentimes telling some of them that they're not going to get what they want or at least all that they want is a difficult task indeed.

"I'd like to also add this caveat, from the perspective of the Minority Party, that I believe this budget was crafted in many ways without partisan consideration but rather based on the merit of the individual issues. For that, I'm grateful to the Chairman of the Ways and Means Committee.

"I'd like to respond to the good Chairman of the Higher Education Committee and I'd like to ask this question of us, colleagues, and I'd like to ask this question, quite frankly, of the people of Hawaii – when do we hit the point that we start demanding results for the investment we're making in education? It is so easy to stand up here on the Floor and say we're doing it for the keiki, we're doing it for the children, which is so very true, but are we really? Where is the money going and what are the results? And what are the people of Hawaii who work so hard that send their children to public schools getting in return? That question can partly be answered by the facts concerning the funding of public education.

"In 10 short years since the close of fiscal 1997, the budget has gone from \$870 million a year to operate the public education system, to the close of '07, with what we're adding to the budget now, it will be \$2.4 billion – a dramatic increase. Well, that might be justified if we said, well maybe we have three times as many children in the system. Not so. The number of children enrolled in the public education system has remained static.

"Where is the money going? The employee count has gone possibly from 17,000 to 19,000 – not a dramatic increase, certainly not \$1.6 billion worth of increase. Where is the money going? And what do we have to show for it? I would say hoorah for all of us. If we put this money in, we could say by every measure of the national education standards, Hawaii shines and it's something we can be proud of. But unfortunately, that's not true.

"It's not true to the extent that many of us here in this room, many in the executive branch of government, many in the judicial branch of government, and many in the ranks and files of teachers have chosen to send their kids to private schools and are paying twice for education of their children – once through high taxes and once again through private school tuitions.

"Yes, we support public education, but we support it to the extent that we want to see the money put in the classrooms, with the teachers, and hold their principals responsible for what's happening in their schools.

"I heard something about that wonderful campaign slogan that was used two years ago called 'reinventing education.' We've reinvented education and it worked well at election time, but what are the results? The budget has gone from \$1.9 billion to about \$2.4 billion. It's costing us another five or six hundred million dollars more. We have reinvented education so well that the weighted student formula that was supposed to be a godsend along with the school councils that are reminiscent of SCBM, which never worked, we have to pay 20 million more dollars so we don't hurt the schools that we're supposed to be helping. What are we going to do next year or the year after?

"So, in all sincerity, colleagues, when do we start to say money is not the problem, management is. When, on behalf of our constituents, and more importantly, on behalf of the teachers and the students, when do we say we want results? We want to change the system so that the money does translate to good services.

"I might add that the system is being held hostage again for repair and maintenance of schools – 1998, \$182 million; \$153 million in 1999; \$51 million in 2000; \$71 million in 2001; \$56 million in 2002; \$127 million in 2003; \$74 million in 2004; 2005 – \$243 million CIP; 2006, \$215 million; 2007, \$228 million – recently, cash right out of our pockets, not bond money, cash.

"May I ask this question, with that huge amount of money, how come the schools aren't fixed? With \$2 billion, how come there's not enough money to buy books? Serious questions. Seriously, one of these days we're going to have to stop listening to the mantra of the bureaucracy in the DOE and the BOE of 'give us more money and we'll do a better job' – because we have, and they haven't.

"Thank you, Mr. President."

Senator Trimble rose in opposition to the measure and said:

"Mr. President, I rise in opposition to H.B. No. 1900.

"After the previous speech in favor of the budget I just thought I'd come up and mention three brief points. Number one – it's only part of the budget. There are at least 60 other money bills, one of which seeks to give \$50,000 to print a newsletter, another \$100,000 to create one position in the Department of Health. I think it's appropriate when we have a budget bill to have a total budget bill.

"Number two – we haven't . . . taking revenue and using revenue, general fund revenue for school construction is an admission that we really don't have a surplus. What we had was under-funding previously and deferred maintenance projects. The problem I have is the most serious under-funding, the most serious liability that the state has is the under-funding of the employee retirement system and the health benefits that have been assured to our workers. We should have addressed or at least started to address that.

"Number three – we have a warm body policy. When times are tough, we keep the state payroll going. That's what led to not doing the maintenance projects that we're worrying about now. We need to address the number of civil service positions that work in government, and the only time when we have the will to reduce the size of state government is when we're at a full economy and the economy is growing. That is now. That's the only time that it is palatable to make it happen. We should be doing it now. We haven't done it.

"So, for those three reasons, I will vote against the budget. Thank you."

Senator Sakamoto rose and said:

"Mr. President, a brief response to some of the comments from our Senator from Kailua.

"First, the public schools need to educate every child – special education children, children that come to our shores from Micronesia, Marshall Islands – many of them coming with no education or at least no formal education. The public schools need to educate the rejects or the dropouts from private schools. Mr. President, the public schools don't get to choose who to educate. It does cost more money to educate children that have difficulties whether it's from where they come from, whether it's their language, whether it's a disability, whether it's another problem, or be it a discipline problem.

"Many people talk about the parent gap. Part of the solution I would suggest to the speaker from Kailua and others, the reform effort did empower the school principal and the school community council to use the funds available and I would ask all of my colleagues, I would ask all of the businesses, all of the nonprofits to volunteer at your schools, be a tutor, be a mentor, volunteer for work days and let's help our schools become the schools that we can all be proud of.

"Secondly, on the litany of numbers, I believe the speaker should look at the DOE's response to where the money went. They made it clear there are many other issues and we'll not articulate those here today. But in terms of the schools, just as in your house or your business, for the department, every year \$70 million-plus come on the list for new repair and maintenance projects. In the lean years of the state, we weren't adequately funding that. The backlog was \$800 million, then \$640 million, then \$525 million in repair in maintenance, and that is not including the capital improvement projects, which are on another list of hundreds-of-millions-of-dollars for new schools or new school facilities.

"We have a big job. I'm not an apologist for the department. We've passed accountability measures on this Floor. We have measures today that will help. We need to be supporters as opposed to detractors of our public schools. If we support our schools, we can have a system that we can all be proud of."

Senator Tsutsui rose in support of the measure and stated:

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

"Mr. President, first and most importantly, I'd like to begin by commending the Chairman of the Ways and Means Committee for his wisdom and his dedication on crafting what I believe is a fine supplemental budget. I spent, as his Vice Chairman, many weekends, many long nights going line by line, page by page, position by position, appropriation by appropriation looking at ways to craft a fair and responsible budget. After spending many long hours with an individual, it's easy to get an opinion of this individual, and frankly, Mr. President, the Chairman of the Ways and Means Committee is one smart cookie.

"I would also like to thank the House Finance Committee, the Chairman, also the Vice Chairman, my new best buddy in the House, for their long hours in working with us in concert to create this measure. I would also be remiss if I didn't thank the Ways and Means and House Finance staff analysts for their long hours sitting there with us and working through all the fine details of the state budget.

"Finally, Mr. President, I think it's important for us to also thank the members and the many individuals who've contributed to the budget during the budgetary process.

"Real briefly, Mr. President, I would just like to mention that again I think this supplemental budget has done a wonderful job. We made education its top priority and the centerpiece of the supplemental budget. It remained dedicated to providing for the needs of our residents by increasing general fund appropriations of \$39.9 million to the Department of Human Services. It provided \$26.3 million to programs at the University of Hawaii, \$19.5 million to the Department of Health as well as \$15.7 million to the Department of Public Safety. This is a balanced budget. I believe it's a responsible budget and a budget that addresses the health, wellbeing and safety of our residents, and for this reason, Mr. President, and many others, I urge my colleagues to support H.B. No. 1900. Thank you."

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

"Mr. President, I rise in opposition to the budget.

"The vote that we're taking now is not a vote on the hard work of individual Legislators and their staff. It's not a vote on smart cookies. It's not even a vote on Act 51, what it promised and what it has or has not delivered. What we're talking about here is a document that in total funds we're talking about \$9.6 billion. And as the late US Senator from Illinois once said, 'A billion here, a billion there, pretty soon it adds up to real money.'

"Those of us that talk about curtailing and controlling the impact of government and the ever-upward spiral of taxation, and cost, and personnel, and agencies have to do more than just talk about it. Because if we tacitly approve the budget year after year after year, which is of course the politically correct thing to do, then we're saying yeah, when we talk about how expensive it is to run the government and how many more people become dependent on government largess, which is taken from the regular taxpayers, then we really haven't done anything to slow this progress or done anything so that people really will believe what we're saying.

"At the same time, when we started this Legislative Session with an estimated \$600 million surplus and whether you want to argue whether we have a surplus or under-funding or whatever, \$600 million, which continued to creep up because the economy is strong, we talked about tax relief. We talked about priorities. And the Governor, I know, initially came out and asked for

between 300 and \$350 million or roughly half of the surplus to be returned to the public, and then that figure was dropped to \$120 million, and then the final figure is closer to \$50 million. It will not return money. It will do what we've been trying to do for several years and which is the right thing to do and that is to expand the standard deduction and also to expand the tax brackets. But that doesn't really meet the constitutional requirement of returning money and in fact we had a bill introduced by the Finance Chairman that would solve the problem by putting it to a vote whether or not the Legislature should make all decisions regarding the money.

"We lose sight in this building as to where that surplus came from. We lose sight as to whose money we're dealing with. It sure is a lot easier to spend other people's money. I'm not questioning some of the decisions that were made in terms of priorities, but I'm saying that if it's your own money or your own families' money, you would probably make different decisions and you probably would not spend as much. Approaching \$10 billion for the size of this state and the size of this economy is too much. We're adding expenditures, and we're adding personnel, and we're adding building costs for healthcare and for retirement that our children are going to have to bear.

"We wonder why so many people continue to struggle in an economy which admittedly is improving and is fairly strong. They struggle because we find that fewer and fewer people are paying more and more of the tax burden. And on the other end we have more people now that are voting for a living rather than working for a living. And as we take people off the tax roles or as we reduce their tax burden, as we give them special tax credits or rebates, the difference if we're going to continue to increase the budget and increase spending has got to come from somewhere and it's going to come from the people – not the wealthy, the wealthy take care of themselves. It's going to be basically the middle class, those people that have the 2½ jobs right now, those people that are struggling, those people that when they get their electric bill, and their water bill, and their sewer bill, and their motor vehicle registration, and their real property taxes find that those expenditures go up geometrically while as their salary increases, if going up at all, go up arithmetically.

"We are creating more and more of a struggle and we're doing so through this budget. And so while there are many laudable things in within the budget – and as the good Senator from Waikiki pointed out we have many, many, many more spending bills that add more billions to our total outlay – we should be aware that we are increasing the burden for the people that live in this state. And so if we say that it really matters that we don't increase government, we don't increase the dependency of people on that government, if we don't increase the number of people working for government and don't increase their benefits, then you have to use the tools that you have to stop it. And the only way or the only tools that you've got right now are to say no. As much as I'd like to support many of the things in the budget, I cannot do it and be true to these other principles.

"And so, Mr. President, I'll be voting 'no.' Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 163-06 was adopted and H.B. No. 1900, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE BUDGET," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

At 12:36 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:40 o'clock p.m.

Conf. Com. Rep. No. 196-06 (S.B. No. 2461, S.D. 1, H.D. 1, C.D. 1):

Senator Chun Oakland moved that Conf. Com. Rep. No. 196-06 be adopted and S.B. No. 2461, S.D. 1, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

Senator Baker then offered the following amendment (Floor Amendment No. 12) to S.B. No. 2461, S.D. 1, H.D. 1, C.D. 1:

SECTION 1. Senate Bill No. 2461, S.D. 1, H.D. 1, C.D. 1, is amended by adding a new part to read as follows:

"PART VII

SECTION 13. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,500,000, or so much thereof as may be necessary for fiscal year 2006-2007, as grants pursuant to chapter 42F, Hawaii Revised Statutes, to:

- |                                  |           |
|----------------------------------|-----------|
| (1) Molokai General Hospital     | \$500,000 |
| (2) Kahuku Hospital              | \$500,000 |
| (3) Hana Community Health Center | \$500,000 |

The sum appropriated shall be expended by the department of health for the purposes of this section.

SECTION 14. There is appropriated out of the general revenues of the State of Hawaii \$500,000, or so much as may be necessary for fiscal year 2006-2007, as a grant pursuant to chapter 42F, Hawaii Revised Statutes, for emergency room subsidy at the Waianae District Comprehensive Health and Hospital Board, Inc., doing business as Waianae Coast Comprehensive Health Center.

The sum appropriated shall be expended by the department of health for the purposes of this section."

SECTION 2. Senate Bill No. 2461, S.D. 1, H.D. 1, C.D. 1, is amended by renumbering section 13 as section 15, and designating it as "PART VIII".

Senator Baker moved that Floor Amendment No. 12 be adopted, seconded by Senator Taniguchi.

Senator Baker rose in support of the amendment and said:

"Mr. President and colleagues, the amendment before you will add \$2 million for some very important health centers – \$500,000 for Molokai General Hospital; \$500,000 to Kahuku Hospital; \$500,000 to Hana Community Health Center and \$500,000 to subsidize the ER at Waianae Coast Comprehensive Center. If the amendment is adopted, added to the amount of money that is in the supplemental budget we just adopted, these four facilities will each receive \$1 million in subsidies to help them cover their indigent care. That means these facilities can stay open. Thank you."

Senator Taniguchi rose in support of the amendment and said:

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

"Mr. President, after getting accolades for the budget and a swelled head, I must eat humble pie and humbly apologize to you and the members of the Senate for this error. I guess I also need to apologize to the recipients of the funds for any anxiety that was caused by this oversight. We did agree to fund it at the appropriate level but didn't cover it in the budget, so we need this amendment.



"I ask my colleagues to support the amendment. Thank you."

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

Senator Baker moved that Conf. Com. Rep. No. 196-06 be received and placed on file, seconded by Senator Taniguchi and carried.

By unanimous consent, S.B. No. 2461, S.D. 1, H.D. 1, C.D. 2, entitled: "A BILL FOR AN ACT RELATING TO GRANTS," was placed on the calendar for Final Reading on Thursday, May 4, 2006.

Conf. Com. Rep. No. 211-06 (S.B. No. 218, S.D. 4, H.D. 1, C.D. 1):

Senator Baker moved that Conf. Com. Rep. No. 211-06 be adopted and S.B. No. 218, S.D. 4, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Tsutsui.

Senator Baker then offered the following amendment (Floor Amendment No. 13) to S.B. No. 218, S.D. 4, H.D. 1, C.D. 1:

SECTION 1. S.B. No. 218, C.D. 1, is amended by designating sections 1 and 2 as part I.

SECTION 2. S.B. No. 218, C.D. 1, is amended by amending the last paragraph of section 1 to read as follows:

"The purpose of this [Aet] part is to appropriate funds to the department of health to establish a training stipend program for emergency medical technicians who do not have access to a training stipend program and who want to advance in their chosen profession by enrolling in a state-qualified mobile intensive care technician training program."

SECTION 3. S.B. No. 218, C.D. 1, is amended by amending the last paragraph of section 2 to read as follows:

"The sum appropriated shall be expended by the department of health for the purposes of this [Aet] part."

SECTION 4. S.B. No. 218, C.D. 1, is amended by adding a new section, designating the new section as part II, and numbering the new section as section 3, to read as follows:

#### "PART II

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,000,000, or so much thereof as is necessary for fiscal year 2006-2007, to provide funding for helicopter medical transport services for the island of Oahu; provided that the department of health shall procure helicopter medical transport services for the island of Oahu according to the following priority:

- (1) Working with the department of defense;
- (2) Working with the city and county of Honolulu; or
- (3) Purchase of service.

The sum appropriated shall be expended by the department of health for the purpose of this part."

SECTION 5. S.B. No. 218, C.D. 1, is amended by renumbering section 3 as section 4, and designating the newly designated section 4 as part III.

Senator Baker moved that Floor Amendment No. 13 be adopted, seconded by Senator Taniguchi.

Senator Baker rose to support the amendment as follows:

"Mr. President and colleagues, floor amendment no. 13 would add a second part to S.B. No. 218 in order to fund the medical air transport services for the Island of Oahu in the sum of \$1 million for the fiscal year 2006-2007. This is to provide for replacement transport once MAST leaves. The initial setup is in an emergency appropriation that is on the fiscal consent calendar but the remaining amount needs to be funded in this measure.

"The other part of the bill is an emergency medical services stipend and the two can go hand in hand. I urge my colleagues to vote 'yes.'"

The motion to adopt Floor Amendment No. 13 was put by the Chair and carried.

Senator Baker moved that Conf. Com. Rep. No. 211-06 be received and placed on file, seconded by Senator Taniguchi and carried.

By unanimous consent, S.B. No. 218, S.D. 4, H.D. 1, C.D. 2, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," was placed on the calendar for Final Reading on Thursday, May 4, 2006.

Conf. Com. Rep. No. 236-06 (H.B. No. 3115, H.D. 2, S.D. 2, C.D. 1):

Senator Menor moved that Conf. Com. Rep. No. 236-06 be adopted and H.B. No. 3115, H.D. 2, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

Senator Tsutsui then offered the following amendment (Floor Amendment No. 14) to H.B. No. 3115, H.D. 2, S.D. 2, C.D. 1:

SECTION 1. House Bill No. 3115, H.D. 2, S.D. 2, C.D. 1 (RELATING TO PETROLEUM INDUSTRY), is amended to read as follows:

SECTION 1. The legislature finds that the oil industry has in the past, and if unchecked, will likely in the future, use oligopolistic powers to set artificially high prices in Hawaii for motor fuel and other petroleum products. Disadvantaged by the secrecy in the industry, elected officials and the public are denied accurate assessments of the true causes of higher prices. True and effective transparency would be an effective tool to prevent the use of price maintenance schemes or other illegal behavior that artificially raises consumer prices.

While true transparency should provide benefits for Hawaii consumers, the legislature further finds that the combination of the state's geographical isolation and the market control exercised by the oil companies necessitate additional measures to safeguard the public. While the effectiveness of increased transparency is tested, the current maximum wholesale price of gasoline should be suspended but the governor should have the ability to reinstate it in the event transparency does not provide the relief needed and the oil industry maintains excessively high prices. The governor should have the authority to reinstate the maximum wholesale price upon publication of a finding that its reinstatement is beneficial to the economic well-being, health, or safety of the people of the State.

The legislature further finds that the establishment and allocation of adequate resources for a vigorous state watchdog system to monitor and oversee the petroleum industry and gasoline market is a prerequisite to ensure an efficient market. The public disclosure, collection, aggregation, and analyses of

current data relating to Hawaii petroleum fuel prices, volumes, costs, and profits, and the subsequent reporting of this information to planning and enforcement agencies, such as the departments of the attorney general, business, economic development, and tourism, and taxation, for review and assessment, is critical in ensuring compliance with the letter and spirit of the laws and regulations designed to promote fair and competitive gasoline prices for Hawaii's consumers.

The purposes of this Act are to:

- (1) Require true transparency by the oil industry to increase competition and provide the public and elected officials with the necessary monitoring capability to discourage the industry from using price maintenance schemes or other anti-competitive practices that artificially raise consumer prices;
- (2) Suspend the maximum gasoline wholesale price while leaving the governor the ability to reinstate it if oil companies maintain excessively high prices that are detrimental to the economic well-being, health, or safety of the people of the state;
- (3) Require the public utilities commission to develop and maintain the petroleum industry monitoring, analysis, and reporting program, including an automated petroleum industry information reporting system;
- (4) Redelineate the types of information that the petroleum industry must submit to the public utilities commission;
- (5) Appropriate funds to be expended by the public utilities commission to establish and maintain the petroleum industry monitoring, analysis, and reporting program; and
- (6) Prohibit unfair trade practices by the petroleum industry.

PART I

SECTION 2. Chapter 486J, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

**“§486J-A Informational cost reports.** (a) Each refiner shall file with the commission, on a quarterly basis, in compliance with reporting dates established by the commission, on forms prescribed, prepared, and furnished by the commission, a certified statement of operating and overhead costs for the refiner's Hawaii operations that shall include but not be limited to the following:

- (1) Crude oil costs and sources;
- (2) Other feedstock costs and sources;
- (3) Refinery operating expenses;
- (4) Marketing operating expenses by petroleum product;
- (5) Distribution expenses by petroleum product;
- (6) Corporate overhead expenses; and
- (7) The percentage of the total number of wholesale gallons of unleaded regular and premium unleaded gasoline sold during the reporting period at wholesale prices per gallon that exceed two hundred per cent of the total costs and expenses reported in this subsection on a per gallon basis.

(b) In addition to the reporting required under subsection (a), each distributor shall file with the commission all Securities and Exchange Commission Forms 10-K, 10-Q, annual reports, quarterly reports, and earnings supplements published by the distributor.

(c) Each distributor, except a distributor who is so defined solely by criteria in paragraph (4) of that definition in section 486J-1, who sells liquid fuel only at retail and is not a refiner, shall file with the commission, on a quarterly basis in compliance with reporting dates established by the commission, on forms prescribed, prepared, and furnished by the commission, a certified statement of operating and overhead costs that shall include the following:

- (1) Gasoline purchases, exchanges, and sources;
- (2) Diesel purchases, exchanges, and sources;
- (3) Marketing expenses; and
- (4) Distribution expenses.

**§486J-B Petroleum industry monitoring, analysis, and reporting program.** The commission shall establish the petroleum industry monitoring, analysis, and reporting program that includes development and maintenance of an automated petroleum industry information reporting system that meets the requirements of government, industry, and the public while promoting sound policy making and consumer information and protection. The purpose of the petroleum industry monitoring, analysis, and reporting program is to conduct and facilitate the efficient analysis and reporting of all information and data provided by the petroleum industry pursuant to this chapter. The commission shall develop the petroleum industry monitoring, analysis, and reporting program in a manner that will result in greater market transparency and provide useful information to the general public and those agencies that are authorized or mandated to conduct oversight of the petroleum industry and ensure compliance with all relevant laws.”

SECTION 3. Section 486J-1, Hawaii Revised Statutes, is amended as follows:

1. By adding eight new definitions to be appropriately inserted and to read:

““Classes of retail trade” means the separate subdivisions, or “classes,” of outlets or methods of retail sales of liquid fuels, typically but not always limited to gasoline and diesel for motor vehicles, and includes any:

- (1) Company-operated station that is a retail service station owned and operated by a refiner or wholesale distributor and where retail prices are set by that refiner or wholesale distributor;
- (2) Lessee dealer-operated station that is a retail service station owned by a refiner or wholesale distributor and operated by a qualified gasoline dealer other than a refiner or wholesale distributor under a franchise; or
- (3) Owner-operated station that is a retail service station not owned by a refiner or wholesale distributor and operated by a qualified gasoline dealer.

“Commission” means the public utilities commission.

“Corporate overhead expenses” means the expenses or costs allocated by the refiners that reflect their Hawaii business units’

share of corporate staff costs, such as legal, finance, accounting, information technology, and similar costs.

“Dealer tank wagon price” means the wholesale price at which liquid fuel is sold to any retail outlet by any distributor priced on a delivered basis to a retail outlet.

“Liquid fuel” means fuels in liquid form, commercially usable for energy needs, power generation, and fuels that may be manufactured, produced, or imported into the State or that may be exported therefrom, including petroleum and petroleum products and all fuel alcohols.

“Nonrefiner wholesale price” means the wholesale price at which liquid fuel is sold by any distributor, not a refiner, to any other distributor, not a refiner, for resale at any subsequent wholesale or retail transaction.

“Refiner wholesale price” means the wholesale price at which liquid fuel is sold by a refiner to any distributor, not a refiner, for resale at any subsequent wholesale or retail transaction.

“Wholesale liquid fuel prices” means the prices at which liquid fuel is sold at wholesale for resale at wholesale or retail, typically but not limited to gasoline and diesel for motor vehicles, and include “dealer tank wagon price,” “nonrefiner wholesale price,” and “refiner wholesale price.”

2. By amending the definitions of “distributor,” “fuel,” “person,” and “refiner” to read:

““Distributor” means ~~and includes~~:

- (1) Every person who refines, manufactures, produces, or compounds fuel in the ~~[State,] state,~~ and sells it at wholesale or at retail~~[-]~~ or who ~~utilizes~~ uses it directly in the manufacture of products or for the generation of power;
- (2) Every person who imports or causes to be imported into the ~~[State] state,~~ or exports or causes to be exported from the ~~[State,] state,~~ any fuel; ~~and~~
- (3) Every person who acquires fuel through exchanges with another distributor~~[-];~~ or
- (4) Every person who purchases fuel for resale at wholesale or retail from any person described in paragraph (1), (2), or (3); provided that “distributor” shall not include a marina, lessee dealer-operated station, owner-operated station, or other retailer that retails fuel only to end users or the public.

“Fuel” means ~~and includes~~ fuels, whether liquid, solid, or gaseous, commercially usable for energy needs, power generation, and fuels manufacture, that may be manufactured, grown, produced, or imported into the ~~[State] state~~ or that may be exported ~~[therefrom,] from the state,~~ including petroleum and petroleum products and gases, coal, coal tar, vegetable ferments, and all fuel alcohols.

“Person”~~[-]~~ means any person, firm, association, organization, partnership, business trust, corporation, or company. “Person” also includes any city, county, public district or agency, the State, or any department or agency ~~[thereof,] of the State,~~ and the United States or any department or agency of the United States to the extent authorized by federal law.

“Refiner” means any person who owns, operates, or controls the operations of one or more refineries~~[-]~~ in Hawaii.”

3. By deleting the definition of “petroleum commissioner.”

~~[““Petroleum commissioner” or “commissioner” means the administrator of the energy, resources, and technology division of the department of business, economic development, and tourism.”]~~

SECTION 4. Section 486J-2, Hawaii Revised Statutes, is amended to read as follows:

**“§486J-2 Distributors to register.** Every distributor, and any person before becoming a distributor, shall register as such with the ~~[commissioner] commission~~ on forms to be prescribed, prepared, and furnished by the ~~[commissioner,] commission.~~”

SECTION 5. Section 486J-3, Hawaii Revised Statutes, is amended to read as follows:

**“§486J-3 Statements.** (a) Each distributor shall~~[-at such] file monthly on~~ reporting dates ~~[as the commissioner may establish, file with the commissioner,] established by the commission,~~ on forms prescribed, prepared, and furnished by the ~~[commissioner,] commission,~~ a certified statement showing separately for each county and for the islands of Lanai and Molokai within which and whereon fuel is sold or used during the last preceding reporting ~~[period,] month,~~ the following:

- (1) The total number of gallons or units of fuel, by type or grade, refined, manufactured, or compounded by the distributor within the ~~[State and sold or used by the distributor,] state;~~ and, if for ultimate ~~[use] sale or consumption~~ in another county or on another island, ~~[the name of that county or island,] the number of gallons or units of fuel, by type or grade, sold, exchanged, or otherwise transferred or used by the distributor in each county or island;~~
- (2) The total number of gallons or units of fuel, by type or grade, imported or exported by the distributor ~~[or sold];~~ the total volumes of fuel, by type or grade, sold, exchanged, or otherwise transferred or used by the distributor~~[-];~~ and, if for ultimate ~~[use] sale or consumption~~ in another county or on another island, ~~[the name of that] the number of gallons or units of fuel, by type or grade, sold, exchanged, or otherwise transferred or used by the distributor in each county or island;~~
- (3) The total number of gallons or units of fuel sold as liquid fuel, aviation fuel, diesel fuel, and other types of fuel as required by the ~~[commissioner,] commission;~~
- (4) The total number of gallons or units of fuel ~~[and the types thereof],~~ by type or grade, and their respective sales prices for all fuel sold to~~[-]~~ federal, state, and county agencies, ships stores, or base exchanges, commercial agricultural accounts, commercial nonagricultural accounts, retail dealers, and other customers as required by the ~~[commissioner,]~~
- ~~(5) Monthly Hawaii] commission;~~
- (5) Weekly weighted average acquisition cost per barrel and volumes of foreign or domestic crude oil or other liquid fuels, finished or unfinished, imported to Hawaii, including information identifying the source of the crude oil or other liquid fuels;
- (6) The effective date and time, and the amount of change in cents per gallon, of any increase or decrease in wholesale price occurring during the week; and the weekly weighted average wholesale prices and sales volumes of

finished [leaded—regular,] unleaded regular[,] and premium motor gasoline, and of each other grade of gasoline sold [through company-operated], by island, to retail outlets, [to other end-users,] by classes of retail trade, and to wholesale [customers;

(6) Monthly Hawaii distributors;

(7) Weekly weighted average retail prices and sales volumes of finished unleaded regular and premium motor gasoline, and of each other grade of gasoline sold, by island, by retail distributor outlets of all classes of retail trade, and by any distributor to other end-users; provided that the commission may purchase retail price data from data service companies that the commission may use to substitute some or all data to meet the reporting requirement for retail price data under this paragraph;

(8) The effective date and time, and the amount of change in cents per gallon, of any increase or decrease in wholesale price occurring during the week; and the weekly weighted average wholesale prices and sales volumes [for residential sales, commercial and institutional sales, industrial sales, sales through company-operated retail outlets, sales to other end-users, and wholesale sales of No. 2 diesel fuel and No. 2 fuel oil; and

(7) Monthly Hawaii of No. 2 diesel fuel and No. 2 fuel oil, by island, to retail distributor outlets, by classes of retail trade, and to all other wholesale distributors. Weighted average wholesale prices and sales volumes shall be reported by type of wholesale liquid fuel price;

(9) Weekly weighted average retail prices, and sales volumes of No. 2 diesel fuel and No. 2 fuel oil sold, by island, by retail distributor outlets of all classes of retail trade, and by any distributor to other end-users. The commission may purchase retail price data from data service companies that the commission may use to substitute some or all data to meet the reporting requirement for retail price data under this paragraph;

(10) Weekly weighted average prices and sales volumes for retail sales and wholesale sales, by island, of No. 1 distillate, kerosene, finished aviation gasoline, kerosene-type jet fuel, No. 4 fuel oil, residual fuel oil, and consumer grade propane[-];

(11) For each distributor that is a refiner, the gross margins or spreads between a refiner's average weighted acquisition price for each gallon of crude oil and blendstock refined within the state; and the average weighted prices for each gallon or unit of fuel sold, by county or island, to another distributor, retail dealer, end-user, or consumer; and

(12) For each distributor that is not a refiner, the gross margins or spreads between the distributor's average weighted price for each gallon or unit of fuel acquired by the distributor; and the average weighted prices for each gallon or unit of fuel sold, by county or island, to another distributor, retail dealer, end-user, or consumer.

The [commissioner] commission shall prescribe [by rule when the first report shall be submitted.

(b) In addition to the above reporting, each distributor shall file with the commissioner, Federal Form FEO-1000 or an equivalent state form to be prescribed, prepared, and furnished by the commissioner, showing the expected supply of fuel products for the coming month, and their intended distribution as categorized by Form FEO-1000 or the equivalent state form.

The state form shall be supplied in the event that the Federal Mandatory Petroleum Allocation Regulations should expire, be revoked, or be amended to delete or substantially change the reporting requirements provided therein.

(e) applicable standards and practices for reporting to facilitate uniformity, consistency, and comparability of the data to be submitted.

(b) Each major marketer shall submit to the [commissioner,] commission, at a time and in a form as the [commissioner] commission shall prescribe, information, including petroleum and petroleum product receipts, exchanges, inventories, and distributions. [The commissioner shall prescribe by rule when the first report shall be submitted.

(d) (c) The [commissioner] commission may request additional information as and when [the commissioner] the commission deems necessary to perform [the commissioner's] the commission's responsibilities under this chapter.

(d) Information in the statements filed pursuant to this section shall be collected and maintained for the purpose of facilitating the analysis required by section 486J-5; provided that the commission shall make available to the public the information contained in the statements, but not the statements themselves, as provided in sections 486J-6 and 486J-8."

SECTION 6. Section 486J-4, Hawaii Revised Statutes, is amended to read as follows:

**"§486J-4 Informational reports.** (a) Each major oil producer, refiner, marketer, oil transporter, and oil storer shall submit to the [commissioner,] commission, in [such] a form as the [commissioner] commission shall prescribe, information [which] that includes the following:

- (1) Major oil transporters shall report on petroleum by reporting the capacities of each major transportation system, the amount transported by each system, and inventories thereof. The provision of the information shall not be construed to increase and decrease any authority the [commissioner] commission may otherwise have;
- (2) Major oil storers shall report on storage capacity, inventories, receipts and distributions, and methods of transportation of receipts and distributions;
- (3) Refiners shall report on facility capacity and utilization and method of transportation of refinery receipts and distributions; and
- (4) Major oil marketers shall report on facility capacity and methods of transportation of receipts and distributions.

[The commissioner shall prescribe by rule when the first report shall be submitted.]

(b) The [commissioner] commission may request additional information as and when [the commissioner] the commission deems it necessary to perform [the commissioner's] the commission's responsibilities under this chapter."

SECTION 7. Section 486J-5, Hawaii Revised Statutes, is amended to read as follows:

**"§486J-5 Analysis of information; [audits and inspections]; summary reports.** (a) The [petroleum commissioner,] commission, with the [commissioner's] commission's own staff and other support staff with expertise

and experience in, or with, the petroleum industry, shall gather, analyze, and interpret the information submitted to it pursuant to sections 486J-3 ~~[and], 486J-4, and 486J-A~~ and other information relating to the supply ~~[and price], prices, margins, and profits~~ of petroleum products, with particular emphasis on motor vehicle fuels, including ~~[-but not limited to;]~~ all of the following:

(1) The nature, cause, and extent of any petroleum or petroleum ~~[products shortage]~~ product situation or condition affecting supply~~[-]; price, margins, or profits;~~

~~[(2) The economic and environmental impacts of any petroleum and petroleum product shortage or condition affecting supply;~~

~~(3) Petroleum or petroleum product demand and supply forecasting methodologies utilized by the petroleum industry in Hawaii;~~

~~[(4)]~~ (2) The prices, with particular emphasis on wholesale and retail motor vehicle fuel prices, and any significant changes in prices charged by the petroleum industry for petroleum or petroleum products sold in Hawaii and the reasons for ~~[such]~~ the changes;

~~[(5)]~~ (3) The income, expenses, margins, and profits~~[-] in Hawaii, both before and after taxes, [of the industry as a whole and of major firms within it, including a comparison with other major industry groups and major firms within them as to profits, return on equity and capital, and price earnings ratio;] of each distributor and the income, expenses, margins, and profits, both before and after taxes, of major oil companies in other regions of the United States and other countries; and~~

~~[(6)]~~ (4) The emerging trends relating to supply, demand, ~~[and conservation of petroleum and petroleum products;~~

~~(7) The nature and extent of efforts of the petroleum industry to expand refinery capacity and to make acquisitions of additional supplies of petroleum and petroleum products; and~~

~~(8) The development of a petroleum and petroleum products information system in a manner which will enable the State to take action to meet and mitigate any petroleum or petroleum products shortage or condition affecting supply;~~

~~(b) The commissioner shall conduct random or periodic audits and inspections of any supplier or suppliers of oil or petroleum products to determine whether they are unnecessarily withholding supplies from the market or are violating applicable policies, laws, or rules. The commissioner may solicit assistance of the department of taxation in any such audit. The commissioner shall cooperate with other state and federal agencies to ensure that any audit or inspection conducted by the commissioner is not duplicative of the data received by any of their audits or inspections which is available to the commissioner; price, margins, and profits.~~

~~[(e)]~~ (b) The ~~[commissioner]~~ commission shall analyze the ~~[impacts]~~ effects of state and federal policies, rules, and regulations upon the supply and pricing of petroleum products.

~~[(d)]~~ (c) The ~~[commissioner]~~ commission shall publish annually and submit to the governor and the legislature twenty days prior to the first day of ~~[the current]~~ each regular legislative session a summary, including any analysis and interpretation of the information submitted to it pursuant to this

chapter, and any other activities taken by the ~~[commissioner]~~ commission, including civil penalties imposed and referrals of violations to the attorney general under section 486J-9. Any person may submit comments in writing regarding the accuracy or sufficiency of the information submitted. ~~[At the option of the director, this report may be combined with reporting required by section 196-4(11), in the director's role as state energy resources coordinator.]~~

SECTION 8. Section 486J-6, Hawaii Revised Statutes, is amended to read as follows:

**"§486J-6 Confidential information.** (a) Confidential commercial information ~~[presented]~~ provided to the ~~[commissioner]~~ commission pursuant to this chapter that is exempt from public disclosure under section 92F-13(3) shall be held in confidence by the ~~[commissioner]~~ commission or aggregated to the extent necessary to ~~[assure]~~ ensure confidentiality as ~~[governed]~~ required by chapter 92F~~[-]; including its penalty provisions].~~

(b) No data or information submitted to the ~~[commissioner]~~ commission shall be deemed confidential if the person submitting the information or data has made it public.

(c) Unless otherwise provided by law, with respect to data that the commission obtains or is provided pursuant to ~~[sections]~~ section 486J-3 [and], 486J-4, 486J-5, or 486J-A, neither the ~~[commissioner]~~ commission nor any employee of the ~~[department]~~ commission may do any of the following:

(1) Use the information furnished or obtained ~~[under sections 486J-3 and 486J-4]~~ for any purpose other than the ~~[statistieal]~~ purposes for which it is supplied;

(2) Make any publication whereby the data furnished by any ~~[particular establishment or individual under sections 486J-3 and 486J-4]~~ person can be identified; or

(3) Permit ~~[anyone]~~ any person other than the commission, the department of taxation, the attorney general, the consumer advocate, the department of business, economic development, and tourism, and the authorized representatives and employees of each to examine the individual reports or statements provided [under sections 486J-3 and 486J-4 other than the public utilities commission, the attorney general, and the consumer advocate, and the authorized representatives and employees of each].

SECTION 9. Section 486J-7, Hawaii Revised Statutes, is amended to read as follows:

**"§486J-7 Confidential information obtained by another state agency.** Any confidential information pertinent to the responsibilities of the ~~[commissioner]~~ commission specified in this chapter that is obtained by another state agency, including the department of taxation, ~~[the public utilities commission,]~~ the attorney general, and the consumer advocate, shall be available only to the attorney general, the attorney general's authorized representatives, the department of business, economic development, and tourism, and the ~~[commissioner]~~ commission, and shall be treated in a confidential manner."

SECTION 10. Section 486J-8, Hawaii Revised Statutes, is amended to read as follows:

**"§486J-8 Sharing of information obtained by the [commissioner] commission.** ~~[The commissioner]~~ (a) Except as provided in subsections (b) and (c), the commission shall make ~~[all]~~ any information obtained by the ~~[commissioner]~~

commission under this chapter, including confidential information, available only to the attorney general, the department of taxation, ~~[the public utilities commission,]~~ the consumer advocate, the department of business, economic development, and tourism, the presiding officers of the legislature, and the authorized representative of each, who shall safeguard the confidentiality of all confidential information received.

(b) Notwithstanding any law to the contrary, including any other section of this chapter, no later than fourteen days after the reporting date established by the commission under section 486J-3, the commission shall disclose to the public using the best readily available technology, the information contained in the statements, but not the statements themselves, that are filed pursuant to section 486J-3.

(c) Nothing in this section shall be construed to prohibit the implementation of the petroleum industry monitoring, analysis, and reporting program under section 486J-B or the public disclosure of the analysis of information and reports described in section 486J-5."

SECTION 11. Section 486J-9, Hawaii Revised Statutes, is amended to read as follows:

**"§486J-9 Failure to timely provide information; failure to make and file statements; false statements; penalties; referral to the attorney general.** (a) The ~~[petroleum commissioner]~~ commission shall notify those persons who have failed to timely provide the information specified in section 486J-3 ~~[or, 486J-4, or 486J-A]~~ or requested by the ~~[commissioner]~~ commission under section 486J-3 ~~[or, 486J-4, or 486J-A]~~. If, within five business days after being notified of the failure to provide the specified or requested information, the person fails to supply the specified or requested information, the person shall be subject to a civil penalty of not less than \$50,000 per day nor more than \$100,000 per day for each day the submission of information is refused or delayed~~[-, unless the person has timely filed objections with the commissioner regarding the information and the commissioner has held a hearing and, following a ruling by the commissioner, the person has properly submitted the issue to a court of competent jurisdiction for review].~~

(b) Any person, or any employee of any person, who wilfully makes any false statement, representation, or certification in any record, report, plan, or other document filed with the ~~[commissioner]~~ commission shall be subject to a civil penalty not to exceed \$500,000~~[-]~~ and shall be deemed to have committed an ~~[unfair or deceptive act or practice in the conduct of a trade or commerce and]~~ unlawful trade practice subject to the penalties specified in chapter ~~[480-]~~ 480, "Unfair Petroleum Industry Trade Practices."

(c) The ~~[commissioner]~~ commission shall refer any matter under ~~[this]~~ subsection (a) or (b) to the attorney general, who may exercise any appropriate legal or equitable remedies that may be available to the State.

~~[(e)]~~ (d) For the purposes of this section, "person" means, in addition to the definition contained in section 486J-1, any responsible corporate officer."

SECTION 12. Section 486J-10, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) The ~~[commissioner]~~ director shall adopt rules in accordance with chapter 91 to require that gasoline sold in the

~~[State]~~ state for use in motor vehicles ~~[contain]~~ contains ten per cent ethanol by volume. The amounts of gasoline sold in the ~~[State]~~ state containing ten per cent ethanol shall be in accordance with rules as the ~~[commissioner]~~ director may deem appropriate. The ~~[commissioner]~~ director may authorize the sale of gasoline that does not meet these requirements as provided in subsection (d)."

2. By amending subsections (d), (e), and (f) to read:

"(d) The ~~[commissioner]~~ director may authorize the sale of gasoline that does not meet the provisions of this section:

- (1) To the extent that sufficient quantities of competitively-priced ethanol are not available to meet the minimum requirements of this section; or
- (2) In the event of any other circumstances for which the ~~[commissioner]~~ director determines compliance with this section would cause undue hardship.

(e) Each distributor, ~~[at such]~~ on reporting dates ~~[as established by the [commissioner] director, [may establish,]~~ shall file with the ~~[commissioner,]~~ director, on forms prescribed, prepared, and furnished by the ~~[commissioner,]~~ director, a certified statement showing:

- (1) The price and amount of ethanol available;
  - (2) The amount of ethanol-blended fuel sold by the distributor;
  - (3) The amount of non-ethanol-blended gasoline sold by the distributor; and
  - (4) Any other information the ~~[commissioner]~~ director shall require for the purposes of compliance with this section.
- (f) Provisions with respect to confidentiality of information shall be the same as provided in section ~~[486J-7,]~~ 486J-6."

3. By amending subsection (h) to read:

"(h) The ~~[commissioner,]~~ director, in accordance with chapter 91, shall adopt rules for the administration and enforcement of this section."

SECTION 13. Section 486J-12, Hawaii Revised Statutes, is repealed.

~~["§486J-12 Rules. The commissioner shall adopt, amend, or repeal such rules as [the commissioner] may deem proper to fully effectuate this chapter."]~~

SECTION 14. There is appropriated out of the general revenues of the State of Hawaii the sum of \$500,000 or so much thereof as may be necessary for fiscal year 2006-2007 to:

- (1) Establish and administer the petroleum industry monitoring, analysis, and reporting program established under chapter 486J, Hawaii Revised Statutes; and
- (2) Establish two full-time staff positions in the public utilities commission to implement and maintain the petroleum industry monitoring, analysis, and reporting program, including the automated petroleum industry information reporting system established by section 486J-B, Hawaii Revised Statutes.

The sum appropriated shall be expended by the public utilities commission for the purposes of this part.

PART II

SECTION 15. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER  
UNFAIR PETROLEUM INDUSTRY TRADE  
PRACTICES**

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

“Advertising” includes the use of any banner, sign, placard, poster, streamer, card, or any publication in the media.

“Gasoline” means a volatile mixture of liquid hydrocarbons, generally containing small amounts of additives, suitable for use as a fuel in spark-ignition internal combustion engines.

“Person” means an individual, corporation, government, or governmental subdivision or agency, business trust, estate, trust, partnership, unincorporated association, two or more of any of the foregoing having a joint or common interest, or any other legal or commercial entity.

“Petroleum product” means gasoline, diesel fuel, liquefied petroleum gas only when used as a motor fuel, kerosene, thinner, solvent, liquefied natural gas, pressure appliance fuel, white gasoline, or any motor fuel, or any oil represented as engine lubricant, engine oil, lubricating or motor oil, or any oil used to lubricate transmissions, gears, or axles.

“Sell” or any of its variants means attempt to sell, offer for sale or assist in the sale of, permit to be sold or offered for sale or delivery, offer for delivery, trade, barter, or expose for sale.

§ -2 **Misrepresentations.** (a) It is unlawful for any person to make any deceptive, false, or misleading statement by any means whatsoever regarding quality, quantity, performance, price, discount, profit, or savings used in the sale or selling of any petroleum product regulated pursuant to this chapter or chapters 486H and 486J.

(b) The following deceptive, false, or misleading acts or practices committed or permitted by any person offering to sell any petroleum product that is regulated by this chapter or chapters 486H and 486J are also a violation of this section:

- (1) Misrepresenting the brand, grade, quality, or price of a petroleum product;
- (2) Using false or deceptive representations or designations in connection with the pricing, profits, or sale of a petroleum product;
- (3) Advertising petroleum products or services and not selling them as advertised;
- (4) Advertising petroleum products of a designated brand, grade, trademark, or trade name not actually sold or available for sale;
- (5) Making false, deceptive, or misleading statements concerning conditions of sale, price reductions, costs of operations, profits, or failing to disclose business relationships within the petroleum industry that affect the wholesale pricing of petroleum products;

(6) Representing that the consumer will receive a rebate, discount, or other economic benefit and then failing to give that rebate, discount, or other economic benefit; and

(7) Forging or falsifying any records or documents required by this chapter or chapter 486H or 486J or knowingly keeping, using, or displaying the false or forged records or documents.

§ -3 **Unlawful profiteering.** Any person who sells petroleum products and who, with intent to enhance the price or restrict the supply of petroleum products:

- (1) Wilfully causes or permits preventable waste in the production, manufacture, storage, or distribution of petroleum products;
- (2) Prevents, limits, lessens, or restricts the manufacture, production, supply, or distribution of petroleum products;
- (3) Enters into any contract, combination, or conspiracy in restraint of trade or commerce;
- (4) Exacts or demands any unjust or unreasonable profit in the sale, exchange, or handling of petroleum products; or
- (5) In any way aids or abets the doing of any act prohibited in paragraphs (1) to (4),

commits an unlawful trade practice.

§ -4 **Penalty.** Any person who violates this chapter shall be fined not more than \$10,000 for each violation or imprisoned for not more than five years, or both.

§ -5 **Injunctions.** Any person who violates this chapter may be enjoined by the circuit court by a mandatory injunction or temporary restraining order necessary or proper to effectuate the purposes of this chapter in a suit brought by the attorney general in the name of the State or by any private person in the person’s own name.

§ -6 **Remedies cumulative.** The remedies prescribed in this chapter are cumulative and in addition to any other remedies provided by law.”

PART III

SECTION 16. Beginning on the effective date of this part, sections 486H-13, 486H-15, and 486H-16, Hawaii Revised Statutes, and any rules adopted by the public utilities commission pursuant to chapter 91 to implement those sections, shall be suspended indefinitely.

SECTION 17. The governor by proclamation after publication of notice in accordance with section 1-28.5, Hawaii Revised Statutes, may reinstate the maximum pre-tax wholesale gasoline price pursuant to section 486H-13 upon a finding that such reinstatement is beneficial to the economic well-being, health, or safety of the people of the State. In the notice of reinstatement, the governor shall specify the effective date and the period of reinstatement. During the period of reinstatement, the public utilities commission shall calculate and publish the weekly maximum pre-tax wholesale price in accordance with section 486H-13, subject to any adjustments as may be determined by the public utilities commission.

PART IV

SECTION 18. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 19. In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 20. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 21. This Act shall take effect on July 1, 2006; provided that Part III shall take effect upon its approval.

Senator Tsutsui moved that Floor Amendment No. 14 be adopted, seconded by Senator Sakamoto.

Senator Tsutsui rose to support the amendment and noted:

“Mr. President, the reason for this amendment is two parts. One, it would add a \$500,000 appropriation to establish monitoring and an analysis and reporting program. It would also add two fulltime positions to the PUC to carry out these responsibilities. Secondly, and probably more importantly, it would delete parts of the C.D. 1 that deal with the fair market value, which I believe has been arbitrarily set. Therefore, Mr. President, I urge my colleagues to support this amendment.”

Senator Menor rose in opposition to the amendment and stated:

“Mr. President, I rise to speak against this particular floor amendment.

“I respectfully ask my colleagues to vote down this floor amendment for several reasons. First of all, I ask my colleagues to vote against this floor amendment from the standpoint of maintaining the integrity of our Conference process. In coming up with the conference draft that is before you, late on Friday evening House and Senate Conferees basically reached an agreement with respect to the conference draft that is on this Floor and we shook hands across the table with respect to that particular measure. However, Mr. President, I believe that this amendment should be voted down not only on procedural grounds, but also based on important policy considerations that impact consumers.

“Mr. President, before we began Conference Committee meetings on this measure, I made a commitment to my Senate colleagues that I would be flexible and keep an open mind. I also wanted to work hard to craft a fair and balanced measure that addressed the concerns of my colleagues in the House and Senate about our existing law while including safeguards that would affect the interest of consumers.

“Mr. President and my fellow colleagues, I believe that I have lived up to that commitment. The record will show that we went more than the extra mile to break the impasse and to reach a compromise with the House that is more than fair and reasonable. As you know, Mr. President and my fellow colleagues, I would have preferred continuing the gas pricing regulation by passing out legislation that would have strengthened and improved our gas pricing law by lowering the gas price ceiling by as much as 16 cents per gallon or more. Nevertheless, in recognition of the concerns of many of my legislative colleagues regarding the existing law, I agreed to make numerous concessions.

“To recap, when the House asked for transparency, the Senate Conferees provided far more transparency than the

House called for in its own bill. When the House asked for a suspension, Senate Conferees went along and agreed to a complete and indefinite suspension of gas pricing regulation. And when the House objected to the provision that would have automatically triggered the reinstatement of pricing regulation under certain conditions, Senate Conferees again accommodated the House by putting for the mechanism that eliminates the on-again/off-again switch but would still provide a measure of protection for consumers that would only be used in a situation in which the public can plainly see the misbehavior by the oil companies and can convince the Governor that protection must be provided.

“House Conferees also expressed their concern that the pricing formula that is contained in the conference draft that the Governor in her discretion could reinstate it. They expressed concerns that it may have been set artificially low. So as a further accommodation to the House, I agreed to include a provision that would allow the Governor to raise the price ceiling if she found it was necessary to avoid any sort of economic hardship to the oil companies and jobbers in Hawaii.

“Finally, the conference draft that we passed out also addressed the concern of the House that we shouldn’t have further regulation until we are able to compile additional data that can be used in a thorough analysis of the behavior of the oil companies in the Hawaii market.

“We made another accommodation. With respect to the Governor’s authority to reinstate the provisions of our pricing regulation, that provision was based on a floor amendment to a bill which the Senate Republicans introduced and strongly supported during the 2005 Session. The amendment would give the Governor the power to implement our gas price law, precisely the authority this bill provides. As a further accommodation to my colleagues in the Majority, I also put in a provision that is very close to an amendment that was proposed by the Senator from Kalihi to a House bill relating to gasoline in the Ways and Means Committee that was proposed last Session.

“I would also note that the Sunday Advertiser also quoted our State Minority Leader as saying that the conference draft that the Conferees passed out represented a victory for consumers, and I’d like to thank him for those comments.

“Furthermore, Mr. President, concerns have been expressed about a gas pricing ceiling and the fact that it may have been artificially set too low. Before I get into that, a clear indication that I have moved significantly from my previous position in support of strong pricing regulation to a position that addresses the concerns of House and Senate members with respect to our existing law can be found in editorials that were published in our major daily newspapers today. I would bring to the attention of my fellow colleagues an editorial that was published in this morning’s Honolulu Advertiser entitled ‘gas price oversight calls for our vigilance.’ Let me quote several excerpts from that editorial. The first paragraph indicates, quote, ‘The gas cap is dead – for as long as the public believes it isn’t needed. That is the real upshot from the compromise struck by state lawmakers,’ unquote. The editorial goes on to say, quote, ‘The “hammer” – the public’s means of keeping things fair – is a weak one, unless consumers can become a real force through the choices they make,’ unquote.

“I would also direct my colleagues attention to an editorial that was published in this morning’s Honolulu Star Bulletin entitled ‘Gas cap demise will require use of other methods.’ So I think that these editorials clearly indicate again that we really bent over backward to try to address the concerns of my Legislative colleagues and that we moved significantly off our



original position in favor of maintaining strong and effective pricing regulation in Hawaii's gasoline market.

"Now, I recognize that there are concerns that are being expressed that the gas price ceiling that would remain on the statutes as standby regulation is being set too low, and if implemented will drive the oil companies and wholesalers out of business, again, if it were to ever reinstated. This is simply not true. First of all, it should be emphasized that this bill is imposing a complete and indefinite suspension of our pricing formula. When this bill passes, oil companies and wholesalers will be free to set prices as high or as low as they want. Secondly, if the price regulation is ever reinstated, it will enable the oil companies to earn a reasonable profit under our pricing formula while ensuring that consumers can be able to realize fairer and more reasonable prices.

"In support of this contention, I'd like to read excerpts from a letter that I received from Tim Hamilton, the nationally recognized industry analyst with whom my Committee has consulted, which indicates that our pricing formula, if reinstated, would allow the oil companies to earn more than a reasonable profit. He says in the letter, quote, 'It is important to note that even if the cap is reinstated by the Governor in the future, the formula developed provides for a profit margin for the refining and marketing system in Hawaii that far exceeds the intricate profit margins typically found on the mainland. If one business evaluates the California Energy Commission data, that data would clearly show that the pricing formula as contained in the conference draft far exceeds the industry margins from the mainland. The allegation that the pricing formula will cause pump prices in Hawaii to fall so low that the new low prices for consumers will create a hardship for one sector or more sectors of the industry is simply in direct conflict with the language adopted by the Senate. Consumers will save money, but the margins allowed the industry remain generous,' unquote.

"I would also like to emphasize again that in order to address the House concerns that our pricing formula may set prices too low, we added another provision that allows the Governor to increase the price ceiling for wholesalers if the administration is considering reinstatement of pricing regulation. This is yet, I reiterate, another concession to the House. Moreover, under this measure, the PUC retains the authority that it has under existing law to make necessary adjustments to the price ceiling.

"Now, a concern has also been expressed about the use of the Singapore spot market in the calculation of the pricing formula. It should be emphasized again that the PUC consultant did recommend the use of the Singapore spot market in the calculation of the baseline price. Moreover, the inclusion of Singapore is an attempt to respond to the critics who have castigated us and criticized our existing law because they say it is based on mainland markets that do not obtain their crude oil from the same sources in Asia from which Hawaii gets its crude oil. So in response to that criticism, this is why it makes sense to include Singapore. Adding Singapore is logical since it is the most likely source of gasoline for companies importing gasoline from outside of Hawaii. Moreover the oil used to produce the gasoline refined in Hawaii comes from the same markets as the oil used by refiners in Singapore.

"Moreover, our pricing formula would change the basis of the PUC calculations such that each week the PUC will determine the baseline average using the three lowest market averages out of four available spot markets. In other words, the fourth highest market would be thrown out of the average. If the Governor ever decides to reinstate pricing regulation, this will reduce the volatility, lower prices, and enable consumers to avoid higher prices when there is an aberration in a single

market. For example, having Singapore in the index would have significantly moderated the price increases that occurred because of Hurricanes Katrina and Rita, which severely damaged the refinery infrastructure on the Gulf Coast, one of the three regions in our current index. Our calculation is that if Singapore had been instituted, gas prices could have been lowered by as much as 20 to 30 cents per gallon during the time when prices were spiking throughout the entire country as a result of Hurricanes Rita and Katrina.

"Finally, what I hope my fellow colleagues will understand is that reference to Singapore in the calculation of the wholesale prices that are charged by the oil companies is nothing new. For example, certain wholesalers, such as Aloha Petroleum, are already being charged import parity prices by refiners that are based on Singapore. What we're saying is that we want these significantly lower impact for parity wholesale prices that are available to certain large jobbers such as Aloha Petroleum to also be available to other wholesalers, jobbers, and dealers who are getting shortchanged and are being overcharged by the oil companies as far as wholesale prices are concerned in the gasoline market. Again, that's why I think it really makes sense to go with Singapore.

"But you know, Mr. President, the bottom line is this – consumers want and deserve lower gas prices. Supporters of this floor amendment are saying that the pricing formula that is contained in the conference draft would lower gas prices too much, and that the oil companies should be allowed to charge consumers more. I strongly beg to differ with that. Consumers have been paying excessive gasoline prices for too long now. The oil companies have been charging Hawaii consumers gasoline prices that are excessive for too long now. We need to change that situation. We need to go to bat for the consumers, and I believe that the proposal that is contained in the conference draft that this floor amendment would eliminate would accomplish that objective.

"I'd also like to note that passage of this floor amendment would kill and deprive consumers of an important and improved price cap formula that would lower prices by as much as 16 cents per gallon or more if the Governor decides to reinstate our pricing formula. This may please the oil companies, but supporters of this floor amendment need to go back to their constituents during this election year and explain to them why killing this kind of an amendment that could result in significant savings to consumers and prevent vulture companies from charging more, why that is an acceptable result.

"Another flaw in the proposed floor amendment is that it would significantly weaken the transparency provisions that are contained in the conference draft. The floor amendment would allow the oil companies to notify the public about changes in wholesale prices on a monthly basis as opposed to on a weekly basis. What this means is that under the floor amendment, the public may only see a posting of average wholesale prices on a monthly basis by the oil companies and not see the full impact of significant price spikes that may occur on a weekly basis.

"So, this is another reason why I think we need to take a step back because we tried to address the concerns of the House. We passed out strong transparency provisions and this floor amendment would weaken it.

"Mr. President, in closing I just wanted to ask my colleagues to consider one additional factor which is that if we should reject this floor amendment, that it would send a strong signal to the House that we should move out the conference draft that your Conferees passed out on Friday. It's my understanding that the House is awaiting this Floor vote of the Senate and I'm confident that if we reject this floor amendment that the House

will do the same with respect to a companion floor amendment that they are now considering and that accordingly we'll be able to move out the conference draft which House and Senate Conferees had agreed to in good faith on Friday – we shook hands about this over the table on Friday – and by doing so we would be passing out a fair and balanced proposal that also adequately takes into account the interest of the consumers.

"I'd like to thank all of the members of the Senate who stood with me in the effort to put a law on the books that addressed the concerns that have been raised while continuing to provide the consumers of Hawaii a measure of protection and a way to monitor the behavior of the oil companies to determine if they have fallen back into the past behavior of charging excessive prices for an essential resource. I ask my fellow colleagues to continue supporting the conference draft that would give the people of our state the information and the protection they deserve. Thank you."

Senator Sakamoto rose in support of the amendment as follows:

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

"The amendment that lies before us here, Mr. President, replaces the conference draft 1 with conference draft 2, and I'd like to thank the Chair of the Consumer Protection Committee for working long and hard. I acknowledge that. It's not an easy issue to deal with. The public is divided – is the gas cap, as currently devised, working? Others have said perhaps it could be re-devised to work better. Critics say it's re-devising what would only be more harm than good.

"I'm not going to speak to the process or procedural considerations, but we're here to do good policy, Mr. President, and acknowledge some of the points made by the previous speaker that relate to how we do our work here in the Legislature. Can we build confidence in our consumers out there that what ends up passing out of this Body will be a good bill? There are basically only a few provisions in here that improve, in this proposed amendment, improve the long and hard work for a conference draft. There's no question the \$500,000 to help the PUC and the positions do a better job, to do a good job to continue the monitoring, to continue to bring transparency, that seems like it would help the measure immensely. The conference draft on the Floor prior to any amendment does not include that provision. So that certainly is an improvement.

"There've been concerns whether it's Singapore squeezing somebody by so many cents or so many dollars, this, that, the other thing. Those are the things that deteriorate the confidence level of people in the industry as well as people in the public. This amendment simplifies the measure. I believe by simplifying the measure to say let's continue the current system, have the PUC continue to monitor . . . and the PUC could, in their wisdom, look at other measures that's already allowed. The PUC can do Singapore. They can do other combinations and consumer groups can do that as well.

"Mr. President, basically, let's build confidence and if it proves we stay with the existing system in terms of what the structure is a few months from now, a few years from now, we'll see if the gas cap as was in place was working or the PUC will say it can work better provided that. But at this point, Mr. President, let's go with this simpler version and I ask my colleagues to support this floor amendment that suspends the cap, allows the PUC to do their job and lets consumers see what works and what doesn't. Thank you."

Senator Hanabusa rose to speak in support of the amendment and said:

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

"Mr. President, I would like to say that the Chair of Consumer Protection and Housing, the good Senator from Mililani, did come a far ways from when he originally began as the person who wanted to keep the gas cap intact. I voted WR on his original bill on the promise that he would look at it, and that he has.

"However, what we have before us in the floor amendment concentrates on one specific issue, and that is the issue of the addition of the weekly average price of the spot daily price of the conventional regular unleaded gasoline for Singapore. That is really what is of issue. That is the issue of the condition of Singapore into this index.

"I have reviewed the letter by Mr. Hamilton, who has been identified as the person who CPH has been working with. He says, 'The Singapore cost comparison is most appropriate because Hawaii refiners, like Singapore, use Asian oil to produce gasoline.' Now what does that tell us? It tells us the price that we're looking at is the price of gasoline in Asia. And that is why we received, or I believe this is something that not all of us received but I just got a copy of it, it is from the PUC, an entity called ICF International, which is the PUC's consultant. The PUC's consultant writes in response to a statement made by the Chair of CPH and they admit that ICF did recommend the use of Singapore gasoline prices as one of the two baseline price benchmarks. The other was the Caribbean price.

"However, they go on to say, 'ICF emphatically recommended that those price bases should be used with a more accurate assessment of the average cost of freight to move the product from the Caribbean and Singapore to markets to Hawaii. We proposed a formula based on actual freight quotes from the Caribbean and Singapore to the West Coast adjusted to a Hawaii location. These costs are required to be included to reflect the real import parity cost into Hawaii. Senator Menor's inclusion of the Singapore price does not also include a commensurate location adjustment,' and this is the PUC's entity saying that. They said we need to reflect the cost to deliver competitive products to Hawaii.

"Let us understand what we're doing, what we're telling the consumers. That's what we're all interested in. No one here wants not – not – to get lower gas prices to their constituents. Believe me, we all want to do that. But we also want to be very accurate and fair and transparent in what we're telling our constituents that's happening here, and what is at issue with this floor amendment is Singapore. That is what this floor amendment is looking at. What the consumers need to know when we provide this benchmark is that the information we're giving them is comparable and accurate. By the ICF, which is the PUC's entity, they're saying we're not doing that.

"Let's also understand a little bit about how the gasoline prices are arrived at. The crude oil that Hawaii uses, it is my understanding, is a higher quality because our gasoline is really like the byproduct. What we primarily refine here is jet fuel and secondary diesel, and then gasoline. For those who are also aware of PRI, what was formerly PRI, the Gas Company, does what they call the syn gas – that's the synthetic gas that is used like propane in our homes – that's also a byproduct. But our primary product is jet fuel. That's always been understood. That means we also buy a higher quality of crude in order to do that.

"Singapore's prices are a reflection of gasoline, of course, they're buying from Indonesia, like we do. Apparently we buy a lot of oil from Indonesia, not Singapore. Singapore also buys from the Asia market. And remember, that's exactly what Mr. Hamilton said. Hawaii refiners, like Singapore, use Asian oil to produce gasoline, but we buy a higher quality.

"It is my understanding that for the cost of gasoline, 55 percent is the cost of crude oil, 22 percent is refining, 4 percent is distribution and marketing and 19 percent is taxes. So when we look at this, what are we telling people when we use Singapore independent of any other kind of adjustment? We're telling them Singapore, which has of course the ability to mass produce, doesn't have the environmental laws we have in Hawaii, and therefore their cost of gasoline production is going to be low. And we're just using the cost of unleaded in Singapore. Now, is that giving the people here a fair assessment about what's going on? It's not.

"So all I'm saying is the reason why floor amendment 14, I believe, is necessary is because if we are doing our job of giving the information to our constituents that they should have, let's be honest about it. The PUC's consultant ends by saying, 'ICF strongly agrees with Representative Morita and Representative Souki that any formula should be left off the books until more pricing information can be gathered and studied.' We don't have enough information about Singapore. We have all these questions. We don't have enough information about all the other pricing information that they've used. And if what we are doing here is suspending the gas cap – which is what I believe this underlying bill is doing, we're suspending the gas cap – then let's not get it confused by saying that we somehow are going to create a lower gas price, because remember, the only person who can create that lower gas price under this bill is going to be the Governor. The Governor is going to have to lift it.

"So what information do we all want the Governor to have, us to have, and more importantly than all of us, our constituents and the consumers to have? We want them to have accurate information – information that we can literally go to the bank on. Because if we don't have that, we are going to have the same confusion we've had on the present gas cap. We're going to say, 'ah, it's Katrina; ah, we don't buy our oil from there; we don't do this.' If that's the case, why wasn't it in the beginning? But if that's the situation, let's not make the same mistakes again. Let's learn from our mistake. Let's give the consumers the accurate information they need, give us the accurate information we need, and do not simply go on something that isn't well thought out that even whether we like the PUC or not, we have to give some credibility to their experts who are saying this is not the thing for us to do. We are not to put in Singapore when they don't have enough information for that adjustment. It is not the same market. It is gas manufactured or refined in an area without EPA laws, without the same constraints we have, without the costs that we are associated with and let us just be fair.

"We have to be fair in our assessment or we and the consumers, the consumers, are not going to get a clear picture and we're going to have another, another situation of people being thoroughly confused about this gas cap. And remember, the underlying bill, no matter what happens, the C.D. 2 suspends it. So when we talk about lowering prices, you're talking about the Governor having the right information to basically yank it. And that's what we're talking about.

"Let's not hurt everyone in this process. Let's be prudent. Let's be careful, and that is what this floor amendment seeks to do. Thank you, Mr. President."

Senator Menor rose in rebuttal as follows:

"Mr. President, I'd just like offer a few brief points of rebuttal and also points for clarification with respect to the previous speaker's remarks.

"First of all, I'd like emphasize again that with respect to the inclusion of Singapore for the purposes of calculating the price cap or pricing formula, the PUC's own consultant made clear that they support the inclusion of Singapore. That's clear. That's stated in the PUC consultant's letter and, in addition, that's stated in the PUC consultant's report.

"In addition, I'd like to emphasize that the consultant's concerns about the price formula not including additional location adjustments that could increase the price cap if Singapore were included in the baseline, that concern was taken into account when we included not only Singapore in the pricing formula but also two out of three other markets – the Gulf Coast, New York and the West Coast spot markets. Three of them would have to be averaged on a weekly basis to come up with the baseline for the pricing formula. So, by doing that, what will happen is that the pricing formula, I emphasize – the pricing formula – is not just going to be based on the Singapore price for conventional gasoline. It's going to be a higher amount or higher price given the fact that if you average in the price of conventional gasoline being sold by refiners in mainland markets, which tend to be higher than the Singapore prices, that's automatically going to allow the oil companies and wholesalers in Hawaii to charge prices that are higher than the Singapore spot. So, for that reason, we didn't include an initial location just for the fact that it's referenced by the PUC because it consulted in its letter, along with any other adjustments that would increase the price ceiling and will allow the oil companies to charge significant amounts above the Singapore price because we already have accomplished that under our pricing formula.

"I'd also like to emphasize that this pricing formula is no longer mandatory and no longer binding. So once this bill gets passed into law, the oil companies can set prices as high or as low as they want. The issue here is if the Governor should decide to reinstate pricing regulation in the future, at what level should the price regulation or price ceiling be? Before I get into that issue, let me first of all state that as far as getting the price regulation reinstated, I am sure that the Governor will exercise considerable restraint, prudence and caution before she reinstates any pricing regulation because of the concerns that she has expressed about our gas price cap law. So that should add a lot more comfort to those who have questioned our pricing formula that a law can be implemented that could somehow hurt the oil companies and consumers financially.

"However, I'd like to point out that prior to reinstatement of the law; we have given the Governor the broad discretion to increase the price ceiling if she believed that it was necessary. She can also consult with the Public Utilities Commission which could then take a look at the pricing formula, and under our proposal the PUC would retain their existing power to make adjustments upward in the price ceiling if they felt it was necessary to prevent economic hardship. And in that regard, I know that our existing law is already working well in that regard.

"Last September, as you know, Mr. President, House and Senate Leadership received a letter from the Public Utilities Commission indicating that a jobber on Kauai, Central Petroleum, shortly after the implementation of the gas pricing regulation in September, said that they would go out of business and no longer be able to supply gasoline to the Kauai market if the PUC did not make adjustments upward or increase the price

ceiling on what they call zone price adjustments for the Kauai jobbers on that island. In other words, the Kauai jobbers were saying we need to be able to charge higher wholesale prices or be able to charge more under the price ceiling if we're going to continue to be able to supply gasoline to Kauai. We received the letter in early September. One day later the PUC responds and accommodates the jobber's request and revises and increases the price ceiling or price cap upwards for Kauai. We've prevented a certain supply disruption that the Kauai jobber had expressed concerns about.

"So, it shows that our existing law is working, and to make it even better, we're giving the Governor the power to increase prices further. I disagree with that, but if that would give a further comfort level to my colleagues who feel that the pricing formula doesn't allow oil companies to charge enough, well the Governor can make that decision to increase the price ceiling as appropriate to avoid any economic dislocations.

"I would also like to point out that the letter that was submitted by the PUC consultant, while it expresses concerns in regards to the extent to which the Senate Conferees relied on the PUC's recommendations, does not disagree, but does not rebut Mr. Hamilton's analysis, which is that under our pricing formula, if the Governor should decide to reinstate pricing regulation, that the oil companies and wholesalers would be able to enjoy profit margins that would be more than fair and reasonable and that would still be in excess of the profit margin that they're earning in more competitive markets on the mainland. So again, our pricing formula is definitely fair.

"And finally, in regards to the letter from the PUC consultant, I would like to point out that it does acknowledge what supporters of pricing regulation have been saying, which is that under our pricing formula, if reinstated, that that formula would significantly reduce gas prices by as much as 16 cents per gallon or more.

"So the issue is this, do we support a measure that gives the Governor the power to reinstate the gas price cap or to reinstate a gas pricing formula that would reduce gasoline prices for Hawaii's consumers by as much as 16 cents per gallon or more. This floor amendment, if passed, would effectively prevent consumers from realizing those cost savings, and for those reasons, I strongly urge my colleagues to vote in favor of the conference draft by rejecting this particular floor amendment. Thank you."

Senator Hemmings rose to speak against the amendment as follows:

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

"Mr. President, the good Senator from Waianae, in her usual articulate, lawyeress manner, spoke well about her position on this issue. She requested that we be honest, have some transparency . . . amen, amen. Let's be honest. I'll be honest. I got a call from a lobbyist from an oil company this morning who said that she's working real hard on this and wanted me to vote in favor of it. And to what ends, to what ends? Is this about what's good for the oil companies? Or is this about what's good for the consumers of the State of Hawaii? Or is this about petty politics here at the State Capitol? Let's have some transparency. Let's answer those questions.

"It's no secret where this Caucus stands on the price cap, and we've worked with both interest groups of the Majority Party on this. The Senator from Mililani is exactly right. He did compromise a lot. I imagine it was a tough pill for him to swallow. Many of us on this Floor had the courage to be transparent and honest about it and stood for what we thought

was good legislation on behalf of the consumers of this State of Hawaii. But let's be honest – that's not what this is about.

"This amendment really is going to make no difference in the bigger picture. What this amendment is all about is petty, petty politics. I would suggest the Majority Party members vote with a little bit of honor and dignity on this issue and enforce what was agreed upon in Conference Committee rather than playing these games with the consumers.

"I urge my colleagues to please put aside the partisanship, put aside the bickering, vote this amendment down. It doesn't have a thing to do with the price of oil and is all to do with politics. I urge you to vote this amendment down. Thank you, Mr. President."

Senator Taniguchi rose in support with reservations and said:

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

"I must support this amendment because it includes the agreed upon funding for the monitoring, analysis and reporting program that was left out in the final draft of this bill. I'm caught in a dilemma because as Conference Co-Chair I feel that the other amendments were not part of the agreement. Thank you."

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

The Senate reconvened at 1:35 o'clock p.m.

Senator Hogue rose in opposition and said:

"Mr. President, thanks for the short recess and all the speeches, but I'm going to vote 'no.'

"Here's the reason why I'm going to vote 'no' – because my constituents want a repeal of the gas cap. I've heard a lot of confusing rhetoric go down on this Floor and that's all that has come forward is just total confusion. The people of this state over and over again have said they want a repeal of the gas cap and not more confusion.

"So, for that reason, because I believe in my constituents, I'm going to vote 'no' on this amendment, and when this bill comes forward and if it doesn't say we're going to repeal the gas cap, I will vote 'no' again on Thursday. Thank you very much, Mr. President."

Senator Menor rose and said:

"Mr. President, I just wanted to offer some brief remarks."

The President interjected:

"Senator Menor, you have spoken twice on this issue."

Senator Espero rose to speak in opposition and said:

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

"First, I'd like to comment on a couple newspaper articles I cut out this weekend – Exxon's \$8.4 billion quarterly profit fuels anger; Chevron profits hit \$4 billion for the quarter. These profits are being paid by the citizens of the US and the citizens of Hawaii. This is the reason why this issue came before us many, many years ago starting with the former Governor Ben Cayetano when he took the oil companies to task and after that he decided to look at legislation. We are continuing that

process of how we can deal with the high price of gasoline within our state.

“Once we repeal or suspend the gas price regulations, expect the prices to continue to go up and don’t be surprised, colleagues, if in the very near future you are seeing \$4.00 a gallon. That’s very reasonable and some of my colleagues on the neighbor island are already saying that we are seeing those costs, those figures.

“So, what will we do in the interim? What Hawaii has started, in my opinion, has turned into a national discussion, a national debate from Honolulu to Washington, D.C. President Bush and our Congress are now trying to determine how to deal with this issue that all our citizens are concerned about. We are at the forefront. We have pioneered solutions, ideas. We do not know what the ultimate solution will be. However, we must continue to move forward with what we have done because next Session we will be debating this same topic on how to deal with the high price of gasoline. And this is a quality of life issue for our state and for our children and future generations.

“Mr. President, whether we keep Singapore in or out, prices will continue to rise. But I believe we should keep Singapore in because if the intent is to lower the price of gasoline, then why not add a fourth market which many people may think may be low and drive down the price of gasoline. Isn’t that our intention – to drive down the price of gasoline? So, instead of using the three markets, which we are currently doing, we will have four markets. We will throw out the top – the fourth or the number one, the highest – and base it on the lower three. That seems logical. That seems like a way to drive down the price of gas.

“And with the transparency that we’re talking about in the measure, we will be able to determine where the money is going – follow the money, as we have all heard. Are the retailers making the money? Are the jobbers? Are the big oil companies? Where are the profits going?

“Then of course you have the discussion of free enterprise, free market, should government be involved in setting prices? Yes, we do. We do look at electric rates, for example, for the State of Hawaii for our residents. We look at insurance that an employer pays. So why not look at gasoline prices especially in light of the articles that talk about the billion-dollar profits of our gasoline companies.

“So colleagues, let’s do what I believe is the logical thing to do. Let’s not pass this amendment, because by passing this amendment, I believe we would be helping the oil companies more and hurting the people of Hawaii with this amendment. Thank you, Mr. President.”

Senator Hooser rose in support of the amendment and stated:

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

“First of all, I’d like to start by thanking the Chair of the CPH Committee for all the hard work. I know that he’s been really committed and dedicated to this issue for many years. I appreciate the movement that he has made to accommodate many of the desires and wishes of the majority on the Floor here. I thank him for that. However, in my opinion it does not go far enough, which is why I’m supporting this amendment.

“I think I, like many, have much in common with the people who spoke before me. Like many others, I feel the consumers deserve lower gas prices, and I believe oil companies are reaping excessive profits, but I am not convinced and I don’t believe the public is convinced that the gas price regulation, as

it has been implemented, is working. I think it’s very clear that there is no consensus; there is confusion; there’s a lack of faith and confidence, hence, this is why we’re here today.

“I believe if our intent is to kill the gas cap, and by suspending it, which is included in this bill, we effectively kill it for today, pending future events. If we are going to kill it and suspend it, I suggest that we should do it right; we should make it as clean as possible and limit the confusion.

“I believe the fair market evaluation formula, which incorporates Singapore, and the other measures is not the way to keep it clean. I think it keeps it murky. We don’t really know what that formula will involve. There’s speculation that it will be too low, possibly it could be too high. In either case, additional unintended consequences may come forward.

“I believe the process has been rushed, not properly thought through or tested over time, and as the previous speakers indicated, I think it would be prudent, prudent to remove these provisions, take the time that’s necessary to study the issue, and address it in a future Legislative Session.

“For these reasons and others, I’m encouraging my colleagues to vote in support of the amendment. Thank you.”

Senator Whalen rose to oppose the amendment as follows:

“Mr. President, I rise in opposition to the amendment.

“Just one note for the good Senator from Kauai who thinks we haven’t talked this through enough or haven’t studied enough, before he was elected to this august Body, we were discussing this. In fact the first original bill was passed before it got to the Senate.

“It is interesting to know we heard the plea and the cry for honest and we need honestly here, we need accurate information. In that election after this bill was passed, there was a mailer that was mailed out to every House race that had a Republican appointed for the Democrat. In that mail out it said that your Republican opponent voted to support big oil and then it says the Republican Party has received millions of dollars; they don’t support you, the Hawaii resident. That was mailed out to everyone whether they were in office or not, it didn’t matter, or if they voted for the gas cap or against it, it didn’t matter.

“And a lot of those tight races were lost by the Republicans and that’s not the issue in and of itself, but here we have a Body . . .”

Senator Tsutsui interjected:

“Mr. President, could the speaker please keep his comments to the amendment before us. I don’t believe any of that is in the floor amendment.”

Senator Whalen replied:

“I’m responding to the discussions we’ve had. I’m responding . . .”

The Chair interjected: “Senator Whalen.”

Senator Whalen continued:

“So in our effort to be honest and have accurate information, the original bill or the C.D. 1, rather, is much more accurate or requires much more accurate information from the oil companies and we’re asking to shine a light down into a dark

hole that we do not think about. So we need that transparency, that information to see if the gas cap, if it were active, if it would be working or not. This is a situation where the gas cap, if you step back and look at it unemotionally, you'll see that it has been working if you take into account the different events that have been going on. And the gas cap, I always felt, was too high from the very beginning.

"So, if the gas cap is suspended and we have a Governor, if she is reelected, who hates the gas cap, she probably never will impose it unless the people of this state demand it. We're not going to impose it. It's been suspended. It has no affect on the price. The oil companies can set a price wherever they're at. Why are we passing this bill to water down the formula back to the way it was and keep the cap up high? It makes no sense.

"So in our effort to be honest, who is pushing for this bill to be passed? I had no, not one, constituent contact me about this, about this amendment, or anything else. In fact I had more people contacting me about keeping the cap because they don't trust the oil companies. So when you look at who's pushing for this to be passed, it's big oil, gas distributors. There's no cap. What do they care? Because they know it's effective. It's fighting the way they've gouged us for years.

"And so, to tie it in for the good Senator from Maui who thought I was talking in the opposite direction, you can't have it both ways. You can't vote against the gas cap and be for big oil and then vote to get rid of the gas cap and not be for big oil. And that's the consistency, the accurate information and the honesty that we need. To vote for this amendment is a vote for big oil – flat out, simple, that's the way it is. Thank you very much."

At 1:47 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 1:49 o'clock p.m.

At this time Senator Tsutsui withdrew Floor Amendment No. 14 and his motion to adopt Floor Amendment No. 14, and Senator Sakamoto withdrew his second.

The President then announced:

"Floor Amendment No. 14 is withdrawn."

At 1:51 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 1:52 o'clock p.m.

The motion was put by the Chair and carried, Conf. Com. Rep. No. 236-06 was adopted and H.B. No. 3115, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE PETROLEUM INDUSTRY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 3 (Hogue, Slom, Trimble).

Conf. Com. Rep. No. 25-06 (S.B. No. 2006, S.D. 3, H.D. 2, C.D. 1):

Senator Kokubun moved that Conf. Com. Rep. No. 25-06 be adopted and S.B. No. 2006, S.D. 3, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Hanabusa.

Senator Hee requested a waiver of the filing requirement for floor amendments pursuant to Senate Rule 54(2), and the President granted the waiver.

Senator Hee then offered the following amendment (Floor Amendment No. 15) to S.B. No. 2006, S.D. 3, H.D. 2, C.D. 1:

**SECTION 1. Senate Bill No. 2006, S.D. 3, H.D. 2, C.D. 1, is amended by amending section 1 to read as follows:**

"SECTION 1. In recent years, the number of edible opihī found in Hawaii has declined. The popularity of opihī as a delicacy has led to overharvesting on the island of Oahu and has made opihī difficult to find on the neighbor islands.

The blackfoot opihī (*Cellana exarata*), also known as 'makaiauli,' once the most common limpet in Hawaiian waters, is found in the upper wash of waves. The yellowfoot opihī (*Cellana sandwicensis*), also known as 'alinalina,' is the preferred species for eating. It is found in the wash of waves, roughly between the habitats of the blackfoot opihī and koele, the third type of edible opihī in Hawaii. Koele is also known as the 'kneecap' opihī (*Cellana talcosa*). There is also a fourth type of opihī (*Cellana melanostoma*) observed in Kaua'i that probably also could be found in Niihau.

Although opihī can be collected year-round, opihī shells must be at least one and a quarter inches wide, or the meat must be at least a half-inch wide, to be legally harvested in Hawaii.

The purpose of this Act is to prohibit the sale of all Hawaiian species of edible opihī, subject to an exemption for certain opihī shells used to make jewelry [and for residents of any populated island that is privately owned and has a population of five hundred or less]."

**SECTION 1. Senate Bill No. 2006, S.D. 3, H.D. 2, C.D. 1, is amended by amending section 2 to read as follows:**

"SECTION 2. Section 188-42.5, Hawaii Revised Statutes, is amended to read as follows:

"~~[(§)188-42.5]~~ **Hihiwai, hapawai, opihī, and opae kala'ole selling prohibited.** It shall be unlawful for any person at any time to sell or offer for sale any hihiwai, hapawai, opihī, ~~[and]~~ or opae kala'ole taken from any of the waters within the jurisdiction of the State. ~~[- provided that it shall not be unlawful for a resident of any populated island that is privately owned and has a population of five hundred or less to sell or offer for sale any amount of opihī.]~~ It shall be presumed that the taking of more than one-half gallon per person per day of opihī, as measured with its shell on, from any of the waters within the jurisdiction of the State, is for the purpose of selling or offering to sell opihī.

As used in this section, 'opihī' means all known Hawaiian opihī species, including *Cellana exarata* (blackfoot), *Cellana sandwicensis* (yellowfoot), *Cellana talcosa* (koele), and *Cellana melanostoma*.

The prohibition to sell or offer for sale any opihī as provided by this section shall not apply to opihī shells at least one and one-fourth inches in diameter, sold or offered for sale as a curio or jewelry, or as part of a curio or jewelry; provided that the taking of the opihī for these purposes is in compliance with this section."

Senator Hee moved that Floor Amendment No. 15 be adopted, seconded by Senator Kokubun.

Senator Hee noted:

"Mr. President and colleagues, there appears to be some difference with the Department of Land and Natural Resources. They have indicated some reservations about the way the present bill is worded. So I'm offering an amendment to clarify

language and to address the concerns that have been raised by the Department of Land and Natural Resources.”

Senator English rose in opposition to the amendment and said:

“Mr. President, first of all, I rise in opposition.

“I’m making it very clear that what we’re doing here is removing the exemption from Ni`ihau for the people of Ni`ihau to harvest opihi. This is the opihi bill that we’re talking about.

“I want to point out that the department sent an e-mail to the Senator from Kaneohe a few days ago expressing these concerns. They’ve had the whole Session to do this, but they chose at the last moment to bring these forward.

“Nonetheless, we have to be very cognizant that the small population of Ni`ihau relies on the fact that they harvest opihi. In the old days they used to trade this opihi for poi on Northern Kauai because the island is too dry to raise taro. They don’t have the water resources. Today, they take opihi and they sell it because the taro growers need money. They sell that opihi for their poi and take the poi back to the island. While this affects a very small percentage of our population, this is their sustenance.

“The department is objecting because they’re saying that well, there are no holders of commercial marine licenses on Ni`ihau. I suppose that’s true. They haven’t translated their licensing requirements into Hawaiian yet, so the people there have a very hard time understanding their requirements. I suppose that the department will be translating their forms and requirements into Hawaiian so that all of our citizens can understand they need.

“Nonetheless, I’m against this particular motion because I think we have to protect the interest of the people of Ni`ihau. For those who have committed to supporting it, I can release you from that commitment to support this. I’m doing this really as a way to let the people there know that we will not let this issue pass, that we will revisit it next year to make sure that there is an exemption for them.

“Nonetheless, I also feel that the constitutional guarantee of customary and traditional practices will trump this bill if it is ever challenged. That is to say that this ancient practice of trading opihi for poi and now selling opihi for taro and poi for them to eat, notwithstanding this law, is guaranteed by the Constitution so that the people of Ni`ihau can continue to gather their sustenance. Thank you, Mr. President.”

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

Senator Hee moved that Conf. Com. Rep. No. 25-06 be received and placed on file, seconded by Senator Kokubun and carried.

By unanimous consent, S.B. No. 2006, S.D. 3, H.D. 2, C.D. 2, entitled: “A BILL FOR AN ACT PROHIBITING SALES OF OPIHI,” was placed on the calendar for Final Reading on Thursday, May 4, 2006.

At 1:58 o’clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 2:59 o’clock p.m.

#### FINAL READING

#### MATTERS DEFERRED FROM

FRIDAY, APRIL 28, 2006

S.B. No. 744, S.D. 2, H.D. 1:

On motion by Senator Baker, seconded by Senator Hanabusa and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 744, S.D. 2, and S.B. No. 744, S.D. 2, H.D. 1, entitled: “A BILL FOR AN ACT RELATING TO BUSINESS REGISTRATION,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

S.B. No. 2454, S.D. 1, H.D. 2:

On motion by Senator Baker, seconded by Senator Kokubun and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2454, S.D. 1, and S.B. No. 2454, S.D. 1, H.D. 2, entitled: “A BILL FOR AN ACT RELATING TO OUT-OF-STATE SALES OF TIME SHARE INTERESTS,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 13-06 (S.B. No. 706, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Inouye, seconded by Senator Hanabusa and carried, Conf. Com. Rep. No. 13-06 was adopted and S.B. No. 706, S.D. 2, H.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO INTOXICATING LIQUOR VIOLATIONS INVOLVING MINORS,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 14-06 (S.B. No. 2667, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Ige, seconded by Senator Hanabusa and carried, Conf. Com. Rep. No. 14-06 was adopted and S.B. No. 2667, S.D. 2, H.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO FIREWORKS,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

#### FINAL READING

Conf. Com. Rep. No. 18-06 (S.B. No. 2244, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Hanabusa, seconded by Senator Hee and carried, Conf. Com. Rep. No. 18-06 was adopted and S.B. No. 2244, S.D. 1, H.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO EXPUNGEMENTS,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 26-06 (S.B. No. 2358, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Kokubun, seconded by Senator Hanabusa and carried, Conf. Com. Rep. No. 26-06 was adopted and S.B. No. 2358, S.D. 2, H.D. 2, C.D. 1, entitled: “A BILL

FOR AN ACT RELATING TO PROTECTION OF FOREST RESERVES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 27-06 (S.B. No. 2501, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Kokubun, seconded by Senator Hooser and carried, Conf. Com. Rep. No. 27-06 was adopted and S.B. No. 2501, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FISHING," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 32-06 (S.B. No. 826, H.D. 2, C.D. 1):

On motion by Senator Chun Oakland, seconded by Senator Hanabusa and carried, Conf. Com. Rep. No. 32-06 was adopted and S.B. No. 826, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CHILD ABUSE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 35-06 (S.B. No. 2327, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Chun Oakland, seconded by Senator Hanabusa and carried, Conf. Com. Rep. No. 35-06 was adopted and S.B. No. 2327, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CHILD ABUSE OR NEGLECT REPORTING," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 36-06 (S.B. No. 2328, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Chun Oakland, seconded by Senator Hanabusa and carried, Conf. Com. Rep. No. 36-06 was adopted and S.B. No. 2328, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO NOTICE TO FOSTER PARENTS FOR CHAPTER 587, HAWAII REVISED STATUTES, CHILD PROTECTIVE ACT HEARINGS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 48-06 (S.B. No. 2941, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Hanabusa, seconded by Senator Chun Oakland and carried, Conf. Com. Rep. No. 48-06 was adopted and S.B. No. 2941, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO BRUSH FIRES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 50-06 (S.B. No. 951, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Kokubun, seconded by Senator Hanabusa and carried, Conf. Com. Rep. No. 50-06 was adopted and S.B. No. 951, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FIRE PROTECTION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

#### FINAL READING

#### MATTER DEFERRED FROM FRIDAY, APRIL 28, 2006

Conf. Com. Rep. No. 55-06 (H.B. No. 2639, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Inouye, seconded by Senator Hanabusa and carried, Conf. Com. Rep. No. 55-06 was adopted and H.B. No. 2639, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO USE OF INTOXICANTS WHILE OPERATING A MOTOR VEHICLE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

#### FINAL READING

Conf. Com. Rep. No. 61-06 (H.B. No. 1955, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator English, seconded by Senator Ige and carried, Conf. Com. Rep. No. 61-06 was adopted and H.B. No. 1955, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LITTER CONTROL," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 62-06 (H.B. No. 2367, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Chun Oakland, seconded by Senator Hanabusa and carried, Conf. Com. Rep. No. 62-06 was adopted and H.B. No. 2367, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CRIMINAL HISTORY RECORD CHECKS FOR SERVICE PROVIDERS OF THE OFFICE OF YOUTH SERVICES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 67-06 (H.B. No. 2899, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Hanabusa, seconded by Senator Chun Oakland and carried, Conf. Com. Rep. No. 67-06 was adopted and H.B. No. 2899, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO JUDGMENT LIENS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 71-06 (H.B. No. 1935, H.D. 1, S.D. 1, C.D. 1):



On motion by Senator Espero, seconded by Senator Hogue and carried, Conf. Com. Rep. No. 71-06 was adopted and H.B. No. 1935, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PLANNED COMMUNITY ASSOCIATIONS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 74-06 (H.B. No. 2772, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Kokubun, seconded by Senator Hanabusa and carried, Conf. Com. Rep. No. 74-06 was adopted and H.B. No. 2772, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CRIMINAL PROPERTY DAMAGE TO AGRICULTURAL AND AQUACULTURAL PROPERTY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 80-06 (H.B. No. 1878, S.D. 1, C.D. 1):

On motion by Senator Espero, seconded by Senator Hogue and carried, Conf. Com. Rep. No. 80-06 was adopted and H.B. No. 1878, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INVESTMENT SECURITIES ACT," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 84-06 (H.B. No. 1995, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Chun Oakland, seconded by Senator Hanabusa and carried, Conf. Com. Rep. No. 84-06 was adopted and H.B. No. 1995, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ENDANGERING THE WELFARE OF A MINOR," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 85-06 (H.B. No. 2146, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Kokubun, seconded by Senator Ige and carried, Conf. Com. Rep. No. 85-06 was adopted and H.B. No. 2146, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LAND USE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 86-06 (H.B. No. 237, H.D. 3, S.D. 1, C.D. 1):

On motion by Senator Hanabusa, seconded by Senator Hee and carried, Conf. Com. Rep. No. 86-06 was adopted and H.B. No. 237, H.D. 3, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TORTS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 90-06 (H.B. No. 3225, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Espero, seconded by Senator Hogue and carried, Conf. Com. Rep. No. 90-06 was adopted and H.B. No. 3225, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONDOMINIUMS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 91-06 (H.B. No. 1871, H.D. 1, S.D. 2, C.D. 1):

Senator Fukunaga moved that Conf. Com. Rep. No. 91-06 be adopted and H.B. No. 1871, H.D. 1, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Hanabusa.

Senator Fukunaga requested her remarks be inserted into the Journal, and the Chair having so ordered, Senator Fukunaga's remarks read as follows:

"Mr. President, I rise to speak in favor of the entire package of Identity Theft bills and ask that these remarks be inserted in the Journal for S.B. No. 2158, C.D. 1; S.B. No. 2159, C.D. 1; S.B. No. 2290, C.D. 1; S.B. No. 2292, C.D. 1; S.B. No. 2293, C.D. 1; H.B. No. 1871, C.D. 1; H.B. No. 2535, S.D. 2, and H.B. No. 3244, C.D. 1:

"These measures were introduced as a result of the work of the Hawaii Anti-Phishing Task Force, established by Act 65, Session Laws of Hawaii 2005, to develop state policy on how best to prevent further occurrences of phishing and other forms of electronic commerce-based crimes in the State. The Task Force examined state agencies charged with the responsibility of developing policies, procedures and operations to prevent, monitor, and enforce electronic commerce-based criminal activities and sanctions; reviewed other jurisdictions' activities, policies, and laws related to the prevention of electronic commerce-based crimes; and reviewed a range of options available to deter electronic commerce-based crimes from occurring in the State.

"Through this process the Task Force broadened the scope of its research – and recommendations – to address the rapidly escalating problem of identity theft. For example, just last month we learned that more than 40,000 Hawaii residents who enrolled in certain health and group life insurance plans in 1999 are at risk for identity theft following the theft of some insurance company records. 22,000 private sector employees and 21,500 members of the Hawaii Government Employees Association and the United Public Workers union must now begin the process of it checking their financial records. And for those who find cases of identity theft, the process of clearing their records and restoring their credit may take years.

"The purpose of the bills before you today is to provide substantial protections from identity theft for the residents of Hawaii through a variety of ways:

"S.B. No. 2158, C.D. 1, authorizes government agencies, effective July 1, 2007, to continue to collect, create, or maintain records or documents containing an individual's social security number in the course of carrying out the agency's legitimate government functions, but agencies may not display the social security numbers in any public record or document that is available for public inspection.

“S.B. No. 2159, C.D. 1, makes it a class C felony to intentionally or knowingly possess confidential information of another without authorization; and adds identity theft as an enumerated offense within the repeat offender statute. It provides our country law enforcement.

“S.B. No. 2290, C.D. 1, requires government and businesses that possess personal information of Hawaii residents and experience a security breach to notify people affected by the breach.

“S.B. No. 2292, C.D. 1, requires businesses and government agencies that dispose of documents and other records containing personal information of Hawaii residents to destroy the records to protect against unauthorized access to or use of the information.

“S.B. No. 2293, C.D. 1, prohibits businesses and government agencies, subject to limited exceptions, from disclosing an individual’s social security number to the general public, printing the number on an identification card or in mailings to customers, or requiring the transmission of the number to third parties.

“In addition, S.B. No. 2290, S.B. No. 2292, and S.B. No. 2293 establish similar penalty provisions to allow the Attorney General or the Office of Consumer Protection to bring a cause of action against any business that violates any provision of this measure, and to seek a penalty of not more than \$2,500 for each violation; allow a private cause of action for the sum equal to the actual damages sustained by the injured party; allow the court to award reasonable attorneys’ fees to the prevailing party, and clarify that both penalty actions cannot be brought against a government agency. They also set similar reporting standards for government agencies to submit a written report to the Legislature unless the report will impede a criminal investigation.

“H.B. No. 1871, C.D. 1; allows consumers who are victims of identity theft to place a security freeze on their credit reports, which will prohibit a consumer reporting agency from releasing any information to unauthorized parties without the consumer’s express authorization and will provide consumers more control over who has access to their credit report. Penalties are comparable to those of S.B. No. 2290, S.B. No. 2292, and S.B. No. 2293: to allow up to \$2,500 in penalties for each violation of the new chapter and authorize the Attorney General or the Office of Consumer Protection to bring actions; allow injured parties to bring actions against violators for actual damages caused by the violation; allow reasonable attorneys’ fees for prevailing parties in actions for damages; and provides that the penalties are cumulative to the remedies or penalties available under all other State laws.

“H.B. No. 2535, S.D. 2, amends current Hawaii law for offense of use of a computer in the commission of a separate crime to include use of a computer to obtain control over the property of the victim or to facilitate commission of the offense of theft in the first or second degrees.

“H.B. No. 3244, C.D. 1, makes changes to the task force working on identity theft issues by changing the name to the Identity Theft Task Force, adding additional members, expanding its responsibilities, and extending its life until December 31, 2007. The bill appropriates \$50,000 to the Auditor to staff the work of the task force, and \$50,000 to the Attorney General to compile a uniform identity theft complaint tracking system.

“Many people have worked on bringing these bills to today’s vote, particularly the members of the Task Force. It has truly

been a public-private sector collaboration. While we have much work left to do, these bills provide both a strong foundation in the State’s fight against identity theft; and valuable resources that Hawaii residents can use to protect themselves from financial harm if their financial or personal information is compromised.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 91-06 was adopted and H.B. No. 1871, H.D. 1, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO CONSUMER CREDIT REPORTING AGENCIES,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 92-06 (H.B. No. 3016, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Hanabusa, seconded by Senator Chun Oakland and carried, Conf. Com. Rep. No. 92-06 was adopted and H.B. No. 3016, H.D. 1, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO UNSERVED ARREST WARRANTS,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 93-06 (H.B. No. 2299, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Hanabusa, seconded by Senator Hee and carried, Conf. Com. Rep. No. 93-06 was adopted and H.B. No. 2299, H.D. 1, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO CHAPTER 803,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 94-06 (H.B. No. 3256, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Hanabusa, seconded by Senator Hee and carried, Conf. Com. Rep. No. 94-06 was adopted and H.B. No. 3256, H.D. 1, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE PENAL CODE,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 103-06 (S.B. No. 895, S.D. 1, H.D. 2, C.D. 1):

On motion by Senator Kokubun, seconded by Senator English and carried, Conf. Com. Rep. No. 103-06 was adopted and S.B. No. 895, S.D. 1, H.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO LIMU MANAGEMENT AREA,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 106-06 (S.B. No. 2065, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Inouye, seconded by Senator Ige and carried, Conf. Com. Rep. No. 106-06 was adopted and S.B. No. 2065, S.D. 2, H.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO MOTOR VEHICLE REGISTRATION,”

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

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

Conf. Com. Rep. No. 107-06 (S.B. No. 2283, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Espero, seconded by Senator Hogue and carried, Conf. Com. Rep. No. 107-06 was adopted and S.B. No. 2283, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 110-06 (S.B. No. 2158, S.D. 2, H.D. 1, C.D. 1):

Senator Fukunaga moved that Conf. Com. Rep. No. 110-06 be adopted and S.B. No. 2158, S.D. 2, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Hanabusa.

Senator Fukunaga requested her remarks be inserted into the Journal, and the Chair having so ordered, Senator Fukunaga's remarks read as follows:

"Mr. President, I rise to speak in favor of the entire package of Identity Theft bills and ask that these remarks be inserted in the Journal for S.B. No. 2158, C.D. 1; S.B. No. 2159, C.D. 1; S.B. No. 2290, C.D. 1; S.B. No. 2292, C.D. 1; S.B. No. 2293, C.D. 1; H.B. No. 1871, C.D. 1; H.B. No. 2535, S.D. 2, and H.B. No. 3244, C.D. 1:

"These measures were introduced as a result of the work of the Hawaii Anti-Phishing Task Force, established by Act 65, Session Laws of Hawaii 2005, to develop state policy on how best to prevent further occurrences of phishing and other forms of electronic commerce-based crimes in the State. The Task Force examined state agencies charged with the responsibility of developing policies, procedures and operations to prevent, monitor, and enforce electronic commerce-based criminal activities and sanctions; reviewed other jurisdictions' activities, policies, and laws related to the prevention of electronic commerce-based crimes; and reviewed a range of options available to deter electronic commerce-based crimes from occurring in the State.

"Through this process the Task Force broadened the scope of its research – and recommendations – to address the rapidly escalating problem of identity theft. For example, just last month we learned that more than 40,000 Hawaii residents who enrolled in certain health and group life insurance plans in 1999 are at risk for identity theft following the theft of some insurance company records. 22,000 private sector employees and 21,500 members of the Hawaii Government Employees Association and the United Public Workers union must now begin the process of it checking their financial records. And for those who find cases of identity theft, the process of clearing their records and restoring their credit may take years.

"The purpose of the bills before you today is to provide substantial protections from identity theft for the residents of Hawaii through a variety of ways:

"S.B. No. 2158, C.D. 1, authorizes government agencies, effective July 1, 2007, to continue to collect, create, or maintain records or documents containing an individual's social security number in the course of carrying out the agency's legitimate

government functions, but agencies may not display the social security numbers in any public record or document that is available for public inspection.

"S.B. No. 2159, C.D. 1, makes it a class C felony to intentionally or knowingly possess confidential information of another without authorization; and adds identity theft as an enumerated offense within the repeat offender statute. It provides our country law enforcement.

"S.B. No. 2290, C.D. 1, requires government and businesses that possess personal information of Hawaii residents and experience a security breach to notify people affected by the breach.

"S.B. No. 2292, C.D. 1, requires businesses and government agencies that dispose of documents and other records containing personal information of Hawaii residents to destroy the records to protect against unauthorized access to or use of the information.

"S.B. No. 2293, C.D. 1, prohibits businesses and government agencies, subject to limited exceptions, from disclosing an individual's social security number to the general public, printing the number on an identification card or in mailings to customers, or requiring the transmission of the number to third parties.

"In addition, S.B. No. 2290, S.B. No. 2292, and S.B. No. 2293 establish similar penalty provisions to allow the Attorney General or the Office of Consumer Protection to bring a cause of action against any business that violates any provision of this measure, and to seek a penalty of not more than \$2,500 for each violation; allow a private cause of action for the sum equal to the actual damages sustained by the injured party; allow the court to award reasonable attorneys' fees to the prevailing party, and clarify that both penalty actions cannot be brought against a government agency. They also set similar reporting standards for government agencies to submit a written report to the Legislature unless the report will impede a criminal investigation.

"H.B. No. 1871, C.D. 1; allows consumers who are victims of identity theft to place a security freeze on their credit reports, which will prohibit a consumer reporting agency from releasing any information to unauthorized parties without the consumer's express authorization and will provide consumers more control over who has access to their credit report. Penalties are comparable to those of S.B. No. 2290, S.B. No. 2292, and S.B. No. 2293: to allow up to \$2,500 in penalties for each violation of the new chapter and authorize the Attorney General or the Office of Consumer Protection to bring actions; allow injured parties to bring actions against violators for actual damages caused by the violation; allow reasonable attorneys' fees for prevailing parties in actions for damages; and provides that the penalties are cumulative to the remedies or penalties available under all other State laws.

"H.B. No. 2535, S.D. 2, amends current Hawaii law for offense of use of a computer in the commission of a separate crime to include use of a computer to obtain control over the property of the victim or to facilitate commission of the offense of theft in the first or second degrees.

"H.B. No. 3244, C.D. 1, makes changes to the task force working on identity theft issues by changing the name to the Identity Theft Task Force, adding additional members, expanding its responsibilities, and extending its life until December 31, 2007. The bill appropriates \$50,000 to the Auditor to staff the work of the task force, and \$50,000 to the

Attorney General to compile a uniform identity theft complaint tracking system.

“Many people have worked on bringing these bills to today’s vote, particularly the members of the Task Force. It has truly been a public-private sector collaboration. While we have much work left to do, these bills provide both a strong foundation in the State’s fight against identity theft; and valuable resources that Hawaii residents can use to protect themselves from financial harm if their financial or personal information is compromised.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 110-06 was adopted and S.B. No. 2158, S.D. 2, H.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO IDENTITY THEFT,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 111-06 (S.B. No. 2159, S.D. 2, H.D. 1, C.D. 1):

Senator Fukunaga moved that Conf. Com. Rep. No. 111-06 be adopted and S.B. No. 2159, S.D. 2, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Hanabusa.

Senator Fukunaga requested her remarks be inserted into the Journal, and the Chair having so ordered, Senator Fukunaga’s remarks read as follows:

“Mr. President, I rise to speak in favor of the entire package of Identity Theft bills and ask that these remarks be inserted in the Journal for S.B. No. 2158, C.D. 1; S.B. No. 2159, C.D. 1; S.B. No. 2290, C.D. 1; S.B. No. 2292, C.D. 1; S.B. No. 2293, C.D. 1; H.B. No. 1871, C.D. 1; H.B. No. 2535, S.D. 2, and H.B. No. 3244, C.D. 1:

“These measures were introduced as a result of the work of the Hawaii Anti-Phishing Task Force, established by Act 65, Session Laws of Hawaii 2005, to develop state policy on how best to prevent further occurrences of phishing and other forms of electronic commerce-based crimes in the State. The Task Force examined state agencies charged with the responsibility of developing policies, procedures and operations to prevent, monitor, and enforce electronic commerce-based criminal activities and sanctions; reviewed other jurisdictions’ activities, policies, and laws related to the prevention of electronic commerce-based crimes; and reviewed a range of options available to deter electronic commerce-based crimes from occurring in the State.

“Through this process the Task Force broadened the scope of its research – and recommendations – to address the rapidly escalating problem of identity theft. For example, just last month we learned that more than 40,000 Hawaii residents who enrolled in certain health and group life insurance plans in 1999 are at risk for identity theft following the theft of some insurance company records. 22,000 private sector employees and 21,500 members of the Hawaii Government Employees Association and the United Public Workers union must now begin the process of it checking their financial records. And for those who find cases of identity theft, the process of clearing their records and restoring their credit may take years.

“The purpose of the bills before you today is to provide substantial protections from identity theft for the residents of Hawaii through a variety of ways:

“S.B. No. 2158, C.D. 1, authorizes government agencies, effective July 1, 2007, to continue to collect, create, or maintain records or documents containing an individual’s social security number in the course of carrying out the agency’s legitimate government functions, but agencies may not display the social security numbers in any public record or document that is available for public inspection.

“S.B. No. 2159, C.D. 1, makes it a class C felony to intentionally or knowingly possess confidential information of another without authorization; and adds identity theft as an enumerated offense within the repeat offender statute. It provides our country law enforcement.

“S.B. No. 2290, C.D. 1, requires government and businesses that possess personal information of Hawaii residents and experience a security breach to notify people affected by the breach.

“S.B. No. 2292, C.D. 1, requires businesses and government agencies that dispose of documents and other records containing personal information of Hawaii residents to destroy the records to protect against unauthorized access to or use of the information.

“S.B. No. 2293, C.D. 1, prohibits businesses and government agencies, subject to limited exceptions, from disclosing an individual’s social security number to the general public, printing the number on an identification card or in mailings to customers, or requiring the transmission of the number to third parties.

“In addition, S.B. No. 2290, S.B. No. 2292, and S.B. No. 2293 establish similar penalty provisions to allow the Attorney General or the Office of Consumer Protection to bring a cause of action against any business that violates any provision of this measure, and to seek a penalty of not more than \$2,500 for each violation; allow a private cause of action for the sum equal to the actual damages sustained by the injured party; allow the court to award reasonable attorneys’ fees to the prevailing party, and clarify that both penalty actions cannot be brought against a government agency. They also set similar reporting standards for government agencies to submit a written report to the Legislature unless the report will impede a criminal investigation.

“H.B. No. 1871, C.D. 1; allows consumers who are victims of identity theft to place a security freeze on their credit reports, which will prohibit a consumer reporting agency from releasing any information to unauthorized parties without the consumer’s express authorization and will provide consumers more control over who has access to their credit report. Penalties are comparable to those of S.B. No. 2290, S.B. No. 2292, and S.B. No. 2293: to allow up to \$2,500 in penalties for each violation of the new chapter and authorize the Attorney General or the Office of Consumer Protection to bring actions; allow injured parties to bring actions against violators for actual damages caused by the violation; allow reasonable attorneys’ fees for prevailing parties in actions for damages; and provides that the penalties are cumulative to the remedies or penalties available under all other State laws.

“H.B. No. 2535, S.D. 2, amends current Hawaii law for offense of use of a computer in the commission of a separate crime to include use of a computer to obtain control over the property of the victim or to facilitate commission of the offense of theft in the first or second degrees.

“H.B. No. 3244, C.D. 1, makes changes to the task force working on identity theft issues by changing the name to the Identity Theft Task Force, adding additional members,

expanding its responsibilities, and extending its life until December 31, 2007. The bill appropriates \$50,000 to the Auditor to staff the work of the task force, and \$50,000 to the Attorney General to compile a uniform identity theft complaint tracking system.

“Many people have worked on bringing these bills to today’s vote, particularly the members of the Task Force. It has truly been a public-private sector collaboration. While we have much work left to do, these bills provide both a strong foundation in the State’s fight against identity theft; and valuable resources that Hawaii residents can use to protect themselves from financial harm if their financial or personal information is compromised.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 111-06 was adopted and S.B. No. 2159, S.D. 2, H.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO IDENTITY THEFT,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 112-06 (S.B. No. 2193, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Ige, seconded by Senator Whalen and carried, Conf. Com. Rep. No. 112-06 was adopted and S.B. No. 2193, S.D. 1, H.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO PLANNED COMMUNITY ASSOCIATIONS,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 113-06 (S.B. No. 2290, S.D. 2, H.D. 1, C.D. 1):

Senator Fukunaga moved that Conf. Com. Rep. No. 113-06 be adopted and S.B. No. 2290, S.D. 2, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Hanabusa.

Senator Fukunaga requested her remarks be inserted into the Journal, and the Chair having so ordered, Senator Fukunaga’s remarks read as follows:

“Mr. President, I rise to speak in favor of the entire package of Identity Theft bills and ask that these remarks be inserted in the Journal for S.B. No. 2158, C.D. 1; S.B. No. 2159, C.D. 1; S.B. No. 2290, C.D. 1; S.B. No. 2292, C.D. 1; S.B. No. 2293, C.D. 1; H.B. No. 1871, C.D. 1; H.B. No. 2535, S.D. 2, and H.B. No. 3244, C.D. 1:

“These measures were introduced as a result of the work of the Hawaii Anti-Phishing Task Force, established by Act 65, Session Laws of Hawaii 2005, to develop state policy on how best to prevent further occurrences of phishing and other forms of electronic commerce-based crimes in the State. The Task Force examined state agencies charged with the responsibility of developing policies, procedures and operations to prevent, monitor, and enforce electronic commerce-based criminal activities and sanctions; reviewed other jurisdictions’ activities, policies, and laws related to the prevention of electronic commerce-based crimes; and reviewed a range of options available to deter electronic commerce-based crimes from occurring in the State.

“Through this process the Task Force broadened the scope of its research – and recommendations – to address the rapidly escalating problem of identity theft. For example, just last

month we learned that more than 40,000 Hawaii residents who enrolled in certain health and group life insurance plans in 1999 are at risk for identity theft following the theft of some insurance company records. 22,000 private sector employees and 21,500 members of the Hawaii Government Employees Association and the United Public Workers union must now begin the process of it checking their financial records. And for those who find cases of identity theft, the process of clearing their records and restoring their credit may take years.

“The purpose of the bills before you today is to provide substantial protections from identity theft for the residents of Hawaii through a variety of ways:

“S.B. No. 2158, C.D. 1, authorizes government agencies, effective July 1, 2007, to continue to collect, create, or maintain records or documents containing an individual’s social security number in the course of carrying out the agency’s legitimate government functions, but agencies may not display the social security numbers in any public record or document that is available for public inspection.

“S.B. No. 2159, C.D. 1, makes it a class C felony to intentionally or knowingly possess confidential information of another without authorization; and adds identity theft as an enumerated offense within the repeat offender statute. It provides our country law enforcement.

“S.B. No. 2290, C.D. 1, requires government and businesses that possess personal information of Hawaii residents and experience a security breach to notify people affected by the breach.

“S.B. No. 2292, C.D. 1, requires businesses and government agencies that dispose of documents and other records containing personal information of Hawaii residents to destroy the records to protect against unauthorized access to or use of the information.

“S.B. No. 2293, C.D. 1, prohibits businesses and government agencies, subject to limited exceptions, from disclosing an individual’s social security number to the general public, printing the number on an identification card or in mailings to customers, or requiring the transmission of the number to third parties.

“In addition, S.B. No. 2290, S.B. No. 2292, and S.B. No. 2293 establish similar penalty provisions to allow the Attorney General or the Office of Consumer Protection to bring a cause of action against any business that violates any provision of this measure, and to seek a penalty of not more than \$2,500 for each violation; allow a private cause of action for the sum equal to the actual damages sustained by the injured party; allow the court to award reasonable attorneys’ fees to the prevailing party, and clarify that both penalty actions cannot be brought against a government agency. They also set similar reporting standards for government agencies to submit a written report to the Legislature unless the report will impede a criminal investigation.

“H.B. No. 1871, C.D. 1; allows consumers who are victims of identity theft to place a security freeze on their credit reports, which will prohibit a consumer reporting agency from releasing any information to unauthorized parties without the consumer’s express authorization and will provide consumers more control over who has access to their credit report. Penalties are comparable to those of S.B. No. 2290, S.B. No. 2292, and S.B. No. 2293: to allow up to \$2,500 in penalties for each violation of the new chapter and authorize the Attorney General or the Office of Consumer Protection to bring actions; allow injured parties to bring actions against violators for actual damages

caused by the violation; allow reasonable attorneys' fees for prevailing parties in actions for damages; and provides that the penalties are cumulative to the remedies or penalties available under all other State laws.

"H.B. No. 2535, S.D. 2, amends current Hawaii law for offense of use of a computer in the commission of a separate crime to include use of a computer to obtain control over the property of the victim or to facilitate commission of the offense of theft in the first or second degrees.

"H.B. No. 3244, C.D. 1, makes changes to the task force working on identity theft issues by changing the name to the Identity Theft Task Force, adding additional members, expanding its responsibilities, and extending its life until December 31, 2007. The bill appropriates \$50,000 to the Auditor to staff the work of the task force, and \$50,000 to the Attorney General to compile a uniform identity theft complaint tracking system.

"Many people have worked on bringing these bills to today's vote, particularly the members of the Task Force. It has truly been a public-private sector collaboration. While we have much work left to do, these bills provide both a strong foundation in the State's fight against identity theft; and valuable resources that Hawaii residents can use to protect themselves from financial harm if their financial or personal information is compromised."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 113-06 was adopted and S.B. No. 2290, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PROTECTION FROM SECURITY BREACHES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 115-06 (S.B. No. 2293, S.D. 2, H.D. 1, C.D. 1):

Senator Fukunaga moved that Conf. Com. Rep. No. 115-06 be adopted and S.B. No. 2293, S.D. 2, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Baker.

Senator Fukunaga requested her remarks be inserted into the Journal, and the Chair having so ordered, Senator Fukunaga's remarks read as follows:

"Mr. President, I rise to speak in favor of the entire package of Identity Theft bills and ask that these remarks be inserted in the Journal for S.B. No. 2158, C.D. 1; S.B. No. 2159, C.D. 1; S.B. No. 2290, C.D. 1; S.B. No. 2292, C.D. 1; S.B. No. 2293, C.D. 1; H.B. No. 1871, C.D. 1; H.B. No. 2535, S.D. 2, and H.B. No. 3244, C.D. 1:

"These measures were introduced as a result of the work of the Hawaii Anti-Phishing Task Force, established by Act 65, Session Laws of Hawaii 2005, to develop state policy on how best to prevent further occurrences of phishing and other forms of electronic commerce-based crimes in the State. The Task Force examined state agencies charged with the responsibility of developing policies, procedures and operations to prevent, monitor, and enforce electronic commerce-based criminal activities and sanctions; reviewed other jurisdictions' activities, policies, and laws related to the prevention of electronic commerce-based crimes; and reviewed a range of options available to deter electronic commerce-based crimes from occurring in the State.

"Through this process the Task Force broadened the scope of its research – and recommendations – to address the rapidly escalating problem of identity theft. For example, just last month we learned that more than 40,000 Hawaii residents who enrolled in certain health and group life insurance plans in 1999 are at risk for identity theft following the theft of some insurance company records. 22,000 private sector employees and 21,500 members of the Hawaii Government Employees Association and the United Public Workers union must now begin the process of it checking their financial records. And for those who find cases of identity theft, the process of clearing their records and restoring their credit may take years.

"The purpose of the bills before you today is to provide substantial protections from identity theft for the residents of Hawaii through a variety of ways:

"S.B. No. 2158, C.D. 1, authorizes government agencies, effective July 1, 2007, to continue to collect, create, or maintain records or documents containing an individual's social security number in the course of carrying out the agency's legitimate government functions, but agencies may not display the social security numbers in any public record or document that is available for public inspection.

"S.B. No. 2159, C.D. 1, makes it a class C felony to intentionally or knowingly possess confidential information of another without authorization; and adds identity theft as an enumerated offense within the repeat offender statute. It provides our country law enforcement.

"S.B. No. 2290, C.D. 1, requires government and businesses that possess personal information of Hawaii residents and experience a security breach to notify people affected by the breach.

"S.B. No. 2292, C.D. 1, requires businesses and government agencies that dispose of documents and other records containing personal information of Hawaii residents to destroy the records to protect against unauthorized access to or use of the information.

"S.B. No. 2293, C.D. 1, prohibits businesses and government agencies, subject to limited exceptions, from disclosing an individual's social security number to the general public, printing the number on an identification card or in mailings to customers, or requiring the transmission of the number to third parties.

"In addition, S.B. No. 2290, S.B. No. 2292, and S.B. No. 2293 establish similar penalty provisions to allow the Attorney General or the Office of Consumer Protection to bring a cause of action against any business that violates any provision of this measure, and to seek a penalty of not more than \$2,500 for each violation; allow a private cause of action for the sum equal to the actual damages sustained by the injured party; allow the court to award reasonable attorneys' fees to the prevailing party, and clarify that both penalty actions cannot be brought against a government agency. They also set similar reporting standards for government agencies to submit a written report to the Legislature unless the report will impede a criminal investigation.

"H.B. No. 1871, C.D. 1; allows consumers who are victims of identity theft to place a security freeze on their credit reports, which will prohibit a consumer reporting agency from releasing any information to unauthorized parties without the consumer's express authorization and will provide consumers more control over who has access to their credit report. Penalties are comparable to those of S.B. No. 2290, S.B. No. 2292, and S.B. No. 2293: to allow up to \$2,500 in penalties for each violation

of the new chapter and authorize the Attorney General or the Office of Consumer Protection to bring actions; allow injured parties to bring actions against violators for actual damages caused by the violation; allow reasonable attorneys' fees for prevailing parties in actions for damages; and provides that the penalties are cumulative to the remedies or penalties available under all other State laws.

"H.B. No. 2535, S.D. 2, amends current Hawaii law for offense of use of a computer in the commission of a separate crime to include use of a computer to obtain control over the property of the victim or to facilitate commission of the offense of theft in the first or second degrees.

"H.B. No. 3244, C.D. 1, makes changes to the task force working on identity theft issues by changing the name to the Identity Theft Task Force, adding additional members, expanding its responsibilities, and extending its life until December 31, 2007. The bill appropriates \$50,000 to the Auditor to staff the work of the task force, and \$50,000 to the Attorney General to compile a uniform identity theft complaint tracking system.

"Many people have worked on bringing these bills to today's vote, particularly the members of the Task Force. It has truly been a public-private sector collaboration. While we have much work left to do, these bills provide both a strong foundation in the State's fight against identity theft; and valuable resources that Hawaii residents can use to protect themselves from financial harm if their financial or personal information is compromised."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 115-06 was adopted and S.B. No. 2293, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SOCIAL SECURITY NUMBER PROTECTION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

#### FINAL READING

#### MATTERS DEFERRED FROM FRIDAY, APRIL 28, 2006

S.B. No. 2913, S.D. 1, H.D. 1:

Senator English moved that S.B. No. 2913, S.D. 1, H.D. 1, having been read throughout, pass Final Reading, seconded by Senator Baker.

Senator Slom rose to speak in opposition as follows:

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

"This bill could properly be called a union expansion jobs bill. What it does is require that 50 percent or more of the jobs on these projects be given to only licensed electrical and plumbing contractors. What it's going to do is increase the cost of the project. It doesn't make the project any better, any safer, and it's definitely going to harm consumers. Thank you."

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2913, S.D. 1, and S.B. No. 2913, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONTRACTORS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, 5 (Hemmings, Hogue, Slom, Trimble, Whalen). Excused, 1 (Menor).

S.B. No. 3066, S.D. 1, H.D. 1:

Senator Espero moved that S.B. No. 3066, S.D. 1, H.D. 1, having been read throughout, pass Final Reading, seconded by Senator Baker.

Senator Slom rose in opposition and stated:

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

"It's very interesting. This bill will allow a 50 percent increase in the interest rates charged by Hawaii banks and financial institutions. The arguments that were advanced earlier about this bill is by the architect of the gasoline cap, as a matter of fact, was that if we don't do this, the banks will suffer; they will be noncompetitive; they may close down; they may leave the State because they won't be able to charge the going rate.

"What this bill does is increase that going rate of 50 percent to 24 percent and it allows the local banks to compete with others because what federal law says is that you must use the interest rate in your particular jurisdiction. I would be all for this bill if it removed the caps altogether, but it doesn't. It does so selectively and again it's going to cost consumers of Hawaii more money. Thank you."

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 3066, S.D. 1, and S.B. No. 3066, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INTEREST AND USURY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 18. Noes, 6 (Chun Oakland, Hemmings, Hogue, Hooser, Slom, Trimble). Excused, 1 (Menor).

Conf. Com. Rep. No. 12-06 (S.B. No. 427, S.D. 1, H.D. 1, C.D. 1):

Senator Inouye moved that Conf. Com. Rep. No. 12-06 be adopted and S.B. No. 427, S.D. 1, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Hanabusa.

Senator Whalen rose in opposition to the measure and said:

"Mr. President, I rise in opposition.

"We had a bill very similar to this a number of years ago when then Governor Cayetano vetoed it echoing many of the concerns that we had, but they're very practical reasons. With a lot of carpooling and things that go on, especially on the neighbor islands where we don't have public transportation, we're going to be sending our kids to school with their lunch box, their school books, and a backpack and now they've got to strap on their booster seat because someone else might be taking them home that day or for smaller schools when they go out on field trips and things like that. No one would argue that there's not a safer situation, but at some point, just like the fact that we don't outlaw grease in our hamburgers because it's just impractical, this is just extremely impractical for a large family or families that carpool together, different families carrying other the kids around, to have to keep shifting around these booster seats all the time. We're strapping them in, strapping them out, moving the seats in and out of cars and kids taking them to school.

"We should vote 'no' because of our consideration for the moms and dads and the families that are working together and how difficult it will make life for them. Thank you."

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

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

"The second reason you should consider voting 'no' is that it's unworkable. It looks at age and size. Quite frankly, age shouldn't matter. What does make sense is size. Unfortunately, when you look at the height requirement, I think it was 4-9. The reason, I guess, you limit it to those that are eight years old or less is because maybe your grandmother or aunty might be extremely upset if she had to be driven around in a booster seat. (Laughter.)

"So, you know, let's think about what we're trying to do. It's not about age. Safety, in this case in automobile accidents, is about size, but we're not doing it. We're discriminating on the basis of age and that is not a good basis for law. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 12-06 was adopted and S.B. No. 427, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CHILD PASSENGER SAFETY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 18. Noes, 6 (Hemmings, Hogue, Kim, Slom, Trimble, Whalen). Excused, 1 (Menor).

#### FINAL READING

Conf. Com. Rep. No. 22-06 (S.B. No. 2430, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Ige, seconded by Senator Hanabusa and carried, Conf. Com. Rep. No. 22-06 was adopted and S.B. No. 2430, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 29-06 (S.B. No. 2298, S.D. 1, H.D. 1, C.D. 1):

Senator Baker moved that Conf. Com. Rep. No. 29-06 be adopted and S.B. No. 2298, S.D. 1, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Espero.

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

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

"Wow, this is quite a bill. It penalizes any electrician or plumber who advertises who does not have a license. The penalty is \$1,000 or 40 percent of the total contract price, whichever is greater, for each day that any such ad would run. That seems pretty sobering.

"In addition, however, it adds aiding or abetting as a violation of the chapter, and what that does is to penalize someone for being associated, however tenuously, with someone who is unlicensed and who violates it. This violates

the legal principle that actual wrongdoers should be punished and not innocent bystanders. No provision in here is exculpatory for associated people such as realtors or property managers who may unknowingly or unwittingly hire someone that is unlicensed. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 29-06 was adopted and S.B. No. 2298, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CHAPTER 448E, HAWAII REVISED STATUTES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 4 (Hogue, Slom, Trimble, Whalen). Excused, 1 (Menor).

Conf. Com. Rep. No. 49-06 (S.B. No. 2260, S.D. 1, H.D. 1, C.D. 1):

Senator Hanabusa moved that Conf. Com. Rep. No. 49-06 be adopted and S.B. No. 2260, S.D. 1, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Whalen.

Senator Hemmings rose in support of the measure as follows:

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

"Mr. President, in doing so I want to briefly tell our colleagues that this is a huge victory for the law-abiding people of Hawaii, and I want to heap particular praise upon the Chairman of the Judiciary Committee, the good Senator from Waianae, for her leadership on this effort.

"As we all know, when this bill left the Senate it was a strong measure that was going to put three-time repeat felon convicted perpetrators behind bars for a mandatory sentencing. It got to the House and it was pretty much neutered or castrated. It would allow defendants or their attorneys to impose a mitigated sentence upon request to the judges, and of course we have judges that say, oh my gosh, yes, you are a poor criminal that had a bad upbringing or whatever the excuse may be and there would be no mandatory sentence.

"Under the leadership of the good Senator from Waianae, the Conference Committee amended the bill and put back into it the mandatory aspects of it. So, I think there should be praise where praise is due and I wish to congratulate her on her leadership on this issue. Thank you, Mr. President."

Senator Hanabusa rose to speak in support and stated:

"Mr. President, I rise in support of S.B. No. 2260, C.D. 1.

"Mr. President, I'd like to thank, of course, the good Senator from Maunawili for his nice comments. However, I've always felt that this bill was misnamed by people who called it the three strikes bill. It really is special sentencing for habitual violent felons.

"When this bill originally came to us, it was 33 pages long. It not only contained the enhanced sentence of the 30 years mandatory, it also contained a whole bunch of other provisions regarding increasing sentences as well as when repeat offenders would be counted twice and so forth. The Senate position was that we decided the most critical part of this and what the people of this State wanted us to address was the issue of the habitual violent felons.

"As this measure moved out from the Senate into the House and into Conference, what changes were made were that we



began to look seriously at the various categories that were listed, and there were, by the way, only eight. They have to be three separate offenses – three separate. Unlike California and other places, these are specific major violent felonies which have to be done three separate times before this mandatory minimum would kick in. Out of Conference there were further changes made – for example, carrying of a firearm, which was originally part of it, was dropped, as well as the promotion of sex abuse was also dropped, and what we have are the remaining categories.

“The one category that was added back in, with a caveat that it could not in and of itself on three separate occasions count for the mandatory minimum, was burglary in the first degree. Mr. President, I know that my colleagues have received a lot of e-mails and criticisms about the concept of burglary, and I think it’s time that we understand why burglary in the first degree was included. For most people, when they are faced with crime, the crime that they have to deal with is burglary. And especially for the elderly, when they are hit by a burglar in their home, it is the closest that they feel to an actual physical invasion of their space. I happened to be talking to someone about this one day, and she, a very liberal Democrat, said that ‘til today, when she thinks about being burglarized 15 years ago, she breaks into a cold sweat. She explained to me that it was akin to being raped. She said it was like the closest she could imagine because her personal private space had been invaded.

“We could not, the Conferees, Mr. President, could not accept three separate burglary in the first degree counts to add up to the mandatory minimum. So what we said was, all three could not be – you could have two or you could have one, but all three could not be burglary to get this mandatory minimum sentence.

“There are issues also in this bill. This bill sunsets in the year 2011, and in the meantime we are going to get data. It’s mandatory for the judiciary to give us data on the number of defendants sentenced under this Act and the number of people who were not only sentenced but where they fell in terms of the various categories. In addition to that, public safety is mandated to do the sentencing simulation model which they haven’t done since the year 2000. These are all to address the concerns about what’s the cost. You hear a lot about cost, but no one knows because no one has kept this data. But with this, we will know.

“It is estimated by the Attorney General’s Office that we may have, at best, 200 people who may fall into this category right now. But the 200 people, think about it, have committed violent offenses – violent offenses in the nature of murder, manslaughter, assault, kidnapping, sexual assault in the first degree, continuous sexual assault of a minor under the age of 14, robbery, and, of course, burglary just to name a few.

“This is what this bill is about, Mr. President – it’s about putting away those habitual violent felons. And we are making the statement that if they fit into these categories, they are exactly that – they are habitual violent felons.

“Mr. President, I ask that you and my colleagues support this measure because it sends a very clear message as to the fact that Hawaii is taking a position on these offenses and both the paroling authority and the courts are now required to ensure that there is a minimum jail term for these offenders. Thank you.”

Senator Sakamoto rose in opposition to the measure and stated:

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

“I thank the Judiciary Chair for considering issues like burglary and perhaps sentencing models and needing more data and sunseting the measure, but I don’t believe it’s right even if perhaps they consider ‘three burglaries not being appropriate.’ I think that’s an improvement, but sadly, drugs are a problem. Our neighbors, our relatives, some of them will get caught in drugs, perhaps get caught in mandatory minimum sentencing, perhaps 30 years, but I believe many people can redeem themselves and 30 years in the slammer doesn’t really allow people to go and get their life back together. I’m not talking about people who are really on the other end of this spectrum, but I don’t believe this gives people a chance, those who can recover, to get rehabilitated and be a productive person in our society.”

Senator Hooser rose to speak in opposition as follows:

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

“I don’t have a real fancy speech laid out, but I do have some remarks I’d like to speak about. If it truly was for just habitual violent felons, I might feel a little bit different, but I’m not sure about that. Quite frankly, it’s the burglary part that bothers me.

“My mother’s and father’s house was burglarized a couple of months ago in Georgia, and like the Chair of the Judiciary Committee mentioned, they felt extremely violated. They felt very badly and they’re in their mid-seventies. But I believe if you would ask my mother today whether she felt that skinny, drug-addicted young man deserved to go to prison for 30 years for that act, I think she would say no, and I’m going to ask her after this as soon as I can to confirm that.

“I’m concerned about crime just like everybody else is. We obviously have a criminal problem, but doing more of the same I don’t believe is going to solve the problem. On principle and policy, I just cannot support this. I think people are different, all crimes are different, all situations are different, and we need a certain amount of discretion from the judges. What we’re doing now is clearly not working, and doing more of it, I don’t believe will work either.

“We have over 6,200 people in our state behind bars – 39 percent Native Hawaiian, mostly poor. We pay \$40,000 per inmate per year – \$40,000. We pay \$10,000 or so, plus or minus, to educate our children. We pay \$40,000 for our inmates. I don’t hear anybody on this Floor complaining that they want results from that \$40,000 – how come we don’t get results; we keep spending all this money. We beat up on the schools; we beat up on our kids; no one’s demanding accountability from the prison system. Forty-thousand dollars, we want to spend more of that money – 40,000.

“In mandatory sentencing, 30 years means almost automatic appeals, long court cases, far more expensive trials. We need new approaches to the problem of crime, and mandatory sentencing in the form of three strikes laws is simply representative, in my opinion, of the same old strategies.

“Three strikes is simply a repackaging of past and present attempts to deter crime. States that have had habitual offender laws and recidivist statutes for years. We already have laws on the books that impose stiff penalties up to and including life sentences.

“Yes, punishing a repeat offender more severely than a first-time offender is hard not to support, but mandatory three strike laws, in my opinion and from the research I’ve been able to locate, do not deter crime. Most repeat offenders do not consider the penalties they face before they commit the crime.

This legislation has the potential to backfire and clearly lead to an increase in violence against police as those offenders consider that third strike and consider 30 years mandatory sentencing. They're more likely to resist arrest, kill witnesses, and unfortunately, it may very well lead to more, not less, loss of life. This will also result in an increase on the judicial system and an increase in the cost of imprisonment – \$40,000 again, per inmate.

"I understand the sponsors of the bill believe its implementation will protect our society from the most dangerous of felons, but I am concerned that the legislation encompasses a broad range of criminal conduct, perhaps too broad. Even though it doesn't take three burglaries, the bottom line is one burglary can send one person to jail for 30 years. That's really what it amounts to. If it's the third strike, one burglary can send someone to prison for 30 years, whether that's breaking into an empty house or otherwise.

"Punishment should fit the crime. The 8<sup>th</sup> Amendment to the Bill of Rights set forth the principle of proportionality – the idea that excessive bail should not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted. Mandatory sentencing, the three strikes bill, in my opinion, is excessive.

"This legislation is too closely based on the mistaken belief that focusing on an offender after the crime has been committed will lead to a reduction in the crime rate. I have yet to see the evidence showing this linkage.

"Today, again, we have 6,213 men and women behind bars, over 1,800 of Hawaii's inmates are serving time out-of-state. In my opinion, this will not deter crime. It will cost the state more money. Only when we act to seriously address the conditions that lead so many of our young people to crime and violence, will we then get a reduction in crime.

"Instead of spending \$40,000 per inmate to incarcerate, when we start investing in our communities and after-school programs and drug prevention and treatment programs and work seriously to improve the social economic security of our citizens, only then will we be able to realize a safer and more secure society. There aren't enough prison cells in the state to lock everybody up.

"I believe this legislation lacks fiscal prudence and certainly lacks justice and will do little to better public safety. For all these reasons, I will be voting in opposition to this bill. Thank you, Mr. President."

Senator Espero rose in support and said:

"Mr. President, I'd like to rise in support of this measure.

"Mr. President, people in Hawaii are tired of habitual criminals. Plain and simple – we're tired of people who are getting light sentences or getting off for parole, or whatever the case may be, probation.

"This measure will also eliminate those situations where too often you hear 20 arrests, 10 convictions; 30 arrests, 15 convictions; and yet after a few years these people are out in the community. If this measure will put some of these habitual violent criminals behind bars, this is what the people of Hawaii want. Thank you, Mr. President."

Senator Kanno rose in opposition and stated:

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

"I think there are a number of concerns about the bill and one I'd like to raise is the ability of our prison system to manage the current population that they're responsible for. I was recently trying to get the figures about the difficulty in implementing the programs that should be in place in the prisons and the response was that on any given week, programming, which could mean anything from classes to treatment, in prison is cancelled on average something in the order of five of those days because of the situation with the guards. In a given month, with visit days being on Saturdays and Sundays, on an average month there may be 10 possible weekend visit days. The estimate was that an inmate could expect visitors on maybe three of those days with 70 percent of visit days cancelled because of the situation in our prisons.

"I think it's a shared responsibility between the Legislature and the administration in regards to adequately providing programs and prison space for the inmates that are already there not to be compounded by what's being added in this measure. Thank you, Mr. President."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 49-06 was adopted and S.B. No. 2260, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SENTENCING," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, 4 (Hooser, Ihara, Kanno, Sakamoto). Excused, 2 (Hee, Taniguchi).

#### FINAL READING

#### MATTERS DEFERRED FROM FRIDAY, APRIL 28, 2006

Conf. Com. Rep. No. 56-06 (H.B. No. 1861, S.D. 1, C.D. 1):

Senator Sakamoto moved that Conf. Com. Rep. No. 56-06 be adopted and H.B. No. 1861, S.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Chun Oakland.

Senator Hogue rose to speak against the measure and said:

"Mr. President and colleagues, I rise to urge a 'no' vote from all of you.

"This is a measure that will repeal the requirement that the superintendent of education provide to the board of education an annual report of the principal transactions within the DOE. We heard about a bunch of numbers talked about previously, and you'll remember over the years, sometimes we've had problems deciphering exactly what the numbers are and having an annual report stresses accountability for those specific numbers.

"Now, I've had concerns about this bill as it moved forward in the process and I know that the Chair of Education also had concerns about it and asked for some clarification. Well, that all lead up to this – there was a letter that came down from the policy office and I'll read it for you, it says 'The Governor's Policy Office has met with the Department of Education for clarification on the principal transactions report required. According to the Department of Education, it has been providing these reports to the Board of Education at every regular board meeting over the last 10 years. However, it had not provided such reports to the Legislature or the Governor. During our meeting with the Department of Education, they made an assurance that in the future, principal transaction reports would be given to the Governor at the same frequency that they are provided to the Board of Education. Given the

assurance by the Department of Education to provide principal transaction reports to the Governor, we are in approval with the repeal of this particular measure as noted above,' and then listen to this comment, 'with the reservation that the Department of Education fulfill its assurance to file the report.' And therein lies the rub – it's not going to be in statutes. It won't be there. We will not have them statutorily accountable.

"Annual reports do a number of things. Early in my life, I was a CPA and I recognized how important annual reports are because they summarize all of the numbers that come forward. If you give monthly reports all the time, things change and an annual report is a strong number. You have to be accountable for that particular number. So, it summarizes, it amends, it finalizes and – this is probably the most important thing that an annual report does – it gives a proper measuring stick to prior years. Now all we're going to do is have a bunch of monthly reports, which aren't going to mean something because we don't have this statutorily viable annual report that we can measure on every single year.

"So for those reasons, I recommend that you vote 'no' on this particular measure and make the Department of Education accountable on an annual basis. How many times do we get reports that just get filed? An annual report has meaning. So, please vote 'no' on this particular measure. Thank you so much."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 56-06 was adopted and H.B. No. 1861, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 5 (Fukunaga, Hemmings, Hogue, Slom, Trimble).

Conf. Com. Rep. No. 57-06 (H.B. No. 862, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Inouye, seconded by Senator Hanabusa and carried, Conf. Com. Rep. No. 57-06 was adopted and H.B. No. 862, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TRAFFIC OFFENSES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 58-06 (H.B. No. 2422, H.D. 1, S.D. 2, C.D. 1):

Senator Inouye moved that Conf. Com. Rep. No. 58-06 be adopted and H.B. No. 2422, H.D. 1, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Hanabusa.

At 3:28 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 3:32 o'clock p.m.

By unanimous consent, action on Conf. Com. Rep. No. 58-06 and H.B. No. 2422, H.D. 1, S.D. 2, C.D. 1, was deferred to the end of the calendar.

Conf. Com. Rep. No. 59-06 (H.B. No. 386, H.D. 1, S.D. 1, C.D. 1):

Senator Hanabusa moved that Conf. Com. Rep. No. 59-06 be adopted and H.B. No. 386, H.D. 1, S.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Hee.

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

"Mr. President, I rise in opposition to H.B. No. 386. Interesting bill, and it deserves no less attention than what we gave to the gas cap a couple of hours ago. (Laughter.)

"If you look at the history of this bill, it's very simple. Very few things generate as much heartache or heartburn as the thought of serving on jury duty. We all accept that it's a responsibility. If you look at this, it deals with the number of exemptions, who's excluded. If you look at the original House draft, they took out also all the exclusions and left only two in. And then when it was heard in the House, they amended it and they added a few more exclusions in. When it got to the Senate, they added a few more exclusions in. When they got to Conference Committee, they added a few more exclusions in.

"If you look at the current list of exclusions, you'll be hard pressed to say that it is better than the original law that we currently have in statute. In fact it is worse, and let me tell you why. On April 11<sup>th</sup> I stood up and I opposed the measure because elected officials were no longer excluded, and I said, colleagues, the reason why we're excluded is not because we're special people, the reason why we are – and yes, I accept that we have a responsibility to represent our constituents – the reason why we are excluded is because our constituents have a right that their elected representative will not be fettered or otherwise occupied with other duties. They have the right to this representation.

"You know, it's amazing. The Conference Committee appears to have heard me and in the conference draft they said that elected officials will not have to serve on jury duty whenever the Legislature is in Session, as if the only elected people we have in the State of Hawaii is in the Legislature. I would posit to you, I would suggest to you that the people do not want Governor Lingle serving on a jury duty when she is supposed to be acting as Governor of the State. I would suggest to you that the people do not want Peter Carlisle serving on a jury when he's supposed to be putting lawbreakers in jail.

"Now, I realize that your vote on this issue will not make the headlines in the Advertiser tomorrow, but please consider at least referring it back to Committee, because why should we be passing law that we know is defective. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 59-06 was adopted and H.B. No. 386, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO COURTS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Trimble).

#### FINAL READING

Conf. Com. Rep. No. 60-06 (H.B. No. 2199, H.D. 2, S.D. 1, C.D. 1):

On motion by Senator Inouye, seconded by Senator English and carried, Conf. Com. Rep. No. 60-06 was adopted and H.B. No. 2199, H.D. 2, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INTERNATIONAL TRADE AGREEMENT," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 64-06 (H.B. No. 2343, H.D. 1, S.D. 2, C.D. 1):

Senator Inouye moved that Conf. Com. Rep. No. 64-06 be adopted and H.B. No. 2343, H.D. 1, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Hanabusa.

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

“Mr. President, I rise in opposition to H.B. No. 2343.

“A crime is a crime, is a crime, is a crime. I’m certainly not soft on crime, and I would at least like the Senator from Kauai to remember the words that he uttered earlier today before he votes on this issue. I believe the Senator from Kauai suggested that people do not consider the consequences necessarily of their action before they commit a crime. And certainly, the things that happened in New Orleans were shocking, but we are not New Orleans.

“When we have a natural disaster, our community has always pulled together, and the best way to ensure that that is the way our citizens continue to behave is to treat our citizens like the responsible people they are. If you’re afraid that rioting and looting will break out, then I suggest that the reasonable alternative is to have a concealed carry bill. The reasonable alternative is to empower the shooting of rioters, but let’s not differentiate and say, under these set of circumstances, it’s so much worse because the people you’re trying to influence don’t even listen to us.

“So, if you can’t vote ‘no,’ at least go WR on this issue. (Laughter.) Thank you.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 64-06 was adopted and H.B. No. 2343, H.D. 1, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE PENAL CODE,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Trimble).

Conf. Com. Rep. No. 75-06 (H.B. No. 2145, H.D. 2, S.D. 1, C.D. 1):

On motion by Senator Kim, seconded by Senator Kokubun and carried, Conf. Com. Rep. No. 75-06 was adopted and H.B. No. 2145, H.D. 2, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO AGRICULTURAL TOURISM,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Hooser).

Conf. Com. Rep. No. 82-06 (H.B. No. 3242, S.D. 1, C.D. 1):

Senator Hanabusa moved that Conf. Com. Rep. No. 82-06 be adopted and H.B. No. 3242, S.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Chun Oakland.

Senator Trimble rose to speak in opposition as follows:

“Mr. President, I rise in opposition to H.B. No. 3242.

“This bill makes it a crime for minors to consume alcohol. Do I think that minors should consume alcohol? Probably not.

Should we criminalize it? I don’t think that we should be criminalizing the behavior of the majority of a particular class of people. They’re old enough to get an abortion. They’re old enough to die in Afghanistan in service of their country, but they’re not old enough to have a glass of red wine with their family at Thanksgiving until they’re 21.

“We can pass law, but what we need to do is to teach our young people responsibility, and we don’t teach them to behave responsibly by suddenly saying don’t do this, don’t do this until that magic day of being 21 arrives. When you do this, the type of behavior you’re going to get is increased binge drinking. They will not have learned to be responsible as they grow up.

“So again, I will be voting ‘no’ and please vote your conscience. Thank you.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 82-06 was adopted and H.B. No. 3242, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO INTOXICATING LIQUOR,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 83-06 (H.B. No. 2410, H.D. 1, S.D. 2, C.D. 1):

Senator Baker moved that Conf. Com. Rep. No. 83-06 be adopted and H.B. No. 2410, H.D. 1, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Hanabusa.

Senator Slom rose in opposition and stated:

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

“We continue to expand the list of controlled substances while we fought and lost the so-called war on ice. The latest edition is eszopiclone, which goes by the commercial name of Lunesta, which I think we all see about a hundred times a night on television, which is a sleep agent and that’s the purpose of it. I think we diminish our seriousness of drug addiction and drug eradication when we keep making this list larger and larger and we keep people from being able to get over-the-counter medications that they need. Thank you.”

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

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

“I would just note for the record that this is an administration bill. It is a bill that conforms our statute on controlled substances to federal law. The section regarding pseudoephedrine goes into effect after the federal law goes into effect on September 30. Thank you.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 83-06 was adopted and H.B. No. 2410, H.D. 1, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO CONTROLLED SUBSTANCES,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Slom).

Conf. Com. Rep. No. 88-06 (H.B. No. 2708, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Inouye, seconded by Senator Ige and carried, Conf. Com. Rep. No. 88-06 was adopted and H.B. No. 2708, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ADVERTISING," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 89-06 (H.B. No. 1968, H.D. 1, S.D. 1, C.D. 1):

Senator Menor moved that Conf. Com. Rep. No. 89-06 be adopted and H.B. No. 1968, H.D. 1, S.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Espero.

Senator Trimble rose in opposition to the measure and said:

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

"I'm not really in opposition of a law that would permit distribution of wine by mail or other means. If you read the bill carefully, the language is very convoluted. In fact, it is so bad that I think it goes to the extent of being in violation of the interstate commerce clause of the US Constitution.

"The intention is good; the language is terrible. I'll be voting against it because of the language. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 89-06 was adopted and H.B. No. 1968, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INTOXICATING LIQUOR," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Trimble).

Conf. Com. Rep. No. 105-06 (S.B. No. 2929, H.D. 1, C.D. 1):

On motion by Senator Kokubun, seconded by Senator Hanabusa and carried, Conf. Com. Rep. No. 105-06 was adopted and S.B. No. 2929, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE LAND USE COMMISSION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Trimble).

Conf. Com. Rep. No. 109-06 (S.B. No. 2922, S.D. 1, H.D. 1, C.D. 1):

Senator Hanabusa moved that Conf. Com. Rep. No. 109-06 be adopted and S.B. No. 2922, S.D. 1, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Hee.

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

"Mr. President, I rise in opposition to S.B. No. 2922.

"Mr. President, this bill contains several good administrative and housekeeping provisions, and I support all of these sections of the bill. However, this bill does one thing that is so radical that I must oppose the entire bill at this time.

"If we pass S.B. No. 2922, it would repeal the current law that limits corporations from making more than \$1,000 in campaign contributions in any election period. Federal law

provides for a complete ban on corporate donations to congressional candidates, but Hawaii law allows corporations to allocate no more than \$1,000 among candidates and political action committees. Without the \$1,000 corporate contribution limit, a single corporation could instead donate over \$1,000 to dozens of candidates all within the per candidate contribution limits of \$2,000; \$4,000; and \$6,000 that's currently on the books.

"S.B. No. 2922 would provide a 10,000 percent increase in the aggregate corporate contribution amount – this is from \$1,000 to well over \$100,000 in the aggregate. I believe this change in the law is too drastic and I cannot support it. Instead of decreasing the influence of money in the legislative process, this bill will greatly enhance corporate influence in election campaigns and the legislative process.

"I want to address a technical twist on this issue. It was the Legislature's adoption of H.B. No. 1714, C.D. 1, last Session, which became Act 203, that resulted in the \$1,000 aggregate cap on corporate donations. Many would say that this was done in error, and perhaps so. And perhaps the Campaign Spending Commission's opinion on this matter was incorrect as well, but those who have long sought to reduce corporate and lobbyist influence at the Legislature were very pleased with Act 203 – error or no error, incorrect interpretation or not.

"The fact still remains that from the start of this year 2006, corporations have not been able to spend over \$1,000 in campaign donations among the many good Legislators up for election this year and in the future. If this bill passes, it would not only take effect immediately, but it would reach back to January 1 and have all corporate contributions not count toward any aggregate limit. It's as if no corporate limit had ever existed.

"I believe the voting public has a cynical view of the Legislature. Many often wonder in whose interest we sometimes act. A majority of Legislators usually hold campaign fundraisers during the Legislative Session in the very same period that decisions are made on bills. Imagine watching a debate with judges who are expected to be fair and objective, but these judges ask the debate teams for money for their campaign war chest during the competition while the competition is being held. When this happens, no one should be surprised that the audience and the participants would lose faith and confidence in the ability of the judges to be fair.

"The state gifts law prohibits Legislators from soliciting and accepting gifts if it can be reasonably inferred that the gift was meant to influence official actions of the Legislator. But ironically, gifts to Legislator's campaign funds are legal in Hawaii. When Legislators solicit campaign donations from lobbyists while Legislators are deciding the life and death of these lobbyists' bills, the viewing public has cause to become disdainful.

"I've said enough. Let's just vote this bill down. Thank you."

Senator Hanabusa rose in support of the measure as follows:

"Mr. President, I rise in support of S.B. No. 2922, C.D. 1.

"Mr. President, the original version of S.B. No. 2922 was my bill, and the reason that bill was drafted was to make two changes to the law – changes that, one, we believe was inadvertent, and the second turned out to be just misinterpreted by the Campaign Spending Commission.

"Let me deal with the simpler one. Section 10 of the C.D. 1 adds back in the prosecutor for matching funds. They were somehow inadvertently taken out, and I believe it was because last Session we were dealing with the possibility of using them as the test group for the, quote, 'clean elections bill.' That's why they were taken out, and due to an oversight we forgot to put them back in. That was one provision.

"The second provision was to clarify the issue of corporate donations. Mr. President, when we had this go through the Senate Judiciary Committee, it became very clear that everyone that was there, I believe, including the attorney general, said that it was not the intent of the Legislature to take out or to ban corporate contributions. One of the concerns that the attorney general expressed last year and again reiterated this year is the fact that we do not ban unions, and if we don't ban unions and we ban corporations, that may lead to some kind of constitutional issue.

"Notwithstanding all of that, the problem is that when we did this bill last year, it was not intended to ban corporations and we expected that corporations would be able to give as much as any individual would. What has happened in the meantime is that we have a new director of the Campaign Spending who wasn't here last year as the bill went through and they have developed sort of a circuitous argument, and it's kind of a strange argument but bear with me because you can see where the problem arises. The Campaign Spending Commission says, and in different parts of the law we say if a corporation gives more than \$1,000, whether to one person or a whole bunch of people, in any election cycle, they must then create a political action non-candidate committee. That's step one. Then in another provision of the law we say that no one can give more than \$1,000 to a non-candidate committee vs. candidate's committee. So, reading these two sections together, the Campaign Spending Commission then concluded that no corporation can give more than \$1,000 in an election cycle to anybody – \$1,000 is it.

"That wasn't the intent of our bill last year. If that was the intent, there would be no argument, but that was not the intent. So, when I introduced S.B. No. 2922, it was to clarify that. If this Legislature or the Legislature decided to change that, then that's fine, but that was not what was intended in last year's bill. That is the provision that has raised the most concern.

"I understand that there are people who want to see a ban on corporate contributions who also want to see a ban on labor union contributions. I can honestly say I've introduced bills to that effect over the years, but it has not been the sense of this Legislature to ban labor unions or corporations. And to now say that this bill somehow is misleading the public, is absolutely wrong. This bill clarifies a mistake that we inadvertently made last year and that's really the only provision at issue. No one doubts the fact that we made a mistake on the prosecutor. We made a mistake in how we worded it.

"What you find in terms of the language in S.B. No. 2922 as to the corporations is language that we drafted with the attorney general's assistance. The so-called retroactive aspect of it, which makes this provision retro to January 1, 2006, is a request from the Campaign Spending Commission. They said if we are going to do this and clarify our position, or as we say clarify our position, then they wanted us to go back so that there would be no gap. So corporations that may or may not have given money during this period of time would not be caught in a 'catch 22' by saying wait a minute, we thought we could give, but we gave, and therefore we're in violation of the law. So, the Campaign Spending Commission specifically requested that we make that section retroactive and that's what this is.

"Mr. President, this is a housekeeping measure and I ask that everyone support it.

"We also do have in the United States Supreme Court a Vermont case, which is supposed to clarify campaign spending and that was one of the reasons why we decided this Session to wait and see what the United States Supreme Court says and we can move on from there. But never was it intended, in my recollection as the Chair of Judiciary over these years, that corporate giving was somehow going to be stopped or limited to \$1,000 by what we did last year. Thank you, Mr. President."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 109-06 was adopted and S.B. No. 2922, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CAMPAIGN SPENDING," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 18. Noes, 6 (Hemmings, Hogue, Hooser, Ihara, Slom, Trimble). Excused, 1 (Tsutsui).

Conf. Com. Rep. No. 114-06 (S.B. No. 2292, S.D. 2, H.D. 1, C.D. 1):

Senator Menor moved that Conf. Com. Rep. No. 114-06 be adopted and S.B. No. 2292, S.D. 2, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Fukunaga.

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

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

"I certainly think that we need more protection and more diligence in the destruction of personal records by both business and government, but I'm a little concerned of the way that this bill is drafted. It is vague in definitions. It's vague in punishment, and I seem to see a problem with businesses, particularly small businesses, that could be harshly penalized for the vacancy and what kinds of records and in what way the records must be completely destroyed. It also creates an additional and new cause of action for people against businesses. Thank you."

Senator Fukunaga rose in support of the measure and stated:

"Mr. President, I rise to speak in support of S.B. No. 2292.

"In responding to the prior speaker's comments, I would point out that, during the Conference discussions on these measures, the penalties were modified substantially. The penalties that would be in place for violation of the chapter would not exceed a threshold amount of \$2,500 per violation.

"These amendments were agreed to by many of the small business representatives who participated in the discussions. For these reasons, I urge my colleagues to vote in support of this measure."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 114-06 was adopted and S.B. No. 2292, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DESTRUCTION OF PERSONAL INFORMATION RECORDS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 2 (Slom, Trimble). Excused, 1 (Tsutsui).

**FINAL READING**

**MATTERS DEFERRED FROM  
FRIDAY, APRIL 28, 2006**

S.B. No. 785, S.D. 2, H.D. 2:

On motion by Senator Fukunaga, seconded by Senator Hanabusa and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 785, S.D. 2, and S.B. No. 785, S.D. 2, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC MEETINGS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

S.B. No. 2704, S.D. 2, H.D. 1:

On motion by Senator Sakamoto, seconded by Senator Taniguchi and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2704, S.D. 2, and S.B. No. 2704, S.D. 2, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

**FINAL READING**

**MATTERS DEFERRED FROM  
FRIDAY, APRIL 21, 2006**

Conf. Com. Rep. No. 1-06 (S.B. No. 2479, H.D. 1, C.D. 1):

On motion by Senator Kokubun, seconded by Senator Hanabusa and carried, Conf. Com. Rep. No. 1-06 was adopted and S.B. No. 2479, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE VII, SECTION 12, OF THE HAWAII STATE CONSTITUTION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 3-06 (S.B. No. 2246, S.D. 1, H.D. 2, C.D. 1):

On motion by Senator Hanabusa, seconded by Senator Chun Oakland and carried, Conf. Com. Rep. No. 3-06 was adopted and S.B. No. 2246, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION OF THE STATE OF HAWAII RELATING TO SEXUAL ASSAULT," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

**FINAL READING**

**MATTER DEFERRED FROM  
FRIDAY, APRIL 28, 2006**

Conf. Com. Rep. No. 16-06 (S.B. No. 2021, S.D. 2, H.D. 2, C.D. 1):

Senator Kanno moved that Conf. Com. Rep. No. 16-06 be adopted and S.B. No. 2021, S.D. 2, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

Senator Tsutsui requested his remarks in support of the measure be inserted into the Journal, and the Chair having so ordered, Senator Tsutsui's remarks read as follows:

"Mr. President, I rise in support.

"Mr. President, Colleagues, this measure allows retirees who move outside of the coverage area of the EUTF to be reimbursed for the lesser of an amount equal to the amount of the personal health insurance policy or plan that they would qualify for as if they were to remain in Hawaii.

"This measure promotes flexibility and gives members a wide array of choices when sitting down to decide where they want to spend their retirement years. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 16-06 was adopted and S.B. No. 2021, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYER-UNION HEALTH BENEFITS TRUST FUND," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

**FINAL READING**

Conf. Com. Rep. No. 19-06 (S.B. No. 2600, S.D. 1, H.D. 2, C.D. 1):

On motion by Senator Hanabusa, seconded by Senator Hee and carried, Conf. Com. Rep. No. 19-06 was adopted and S.B. No. 2600, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTRONIC COURT RECORDS, DOCUMENTS, PROCESSES, AND CERTIFICATES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 21-06 (S.B. No. 3254, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Chun Oakland, seconded by Senator Hanabusa and carried, Conf. Com. Rep. No. 21-06 was adopted and S.B. No. 3254, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HOME AND COMMUNITY-BASED SERVICES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 23-06 (S.B. No. 2227, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Baker, seconded by Senator Fukunaga and carried, Conf. Com. Rep. No. 23-06 was adopted and S.B. No. 2227, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH INSURANCE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 28-06 (S.B. No. 3076, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Kokubun, seconded by Senator English and carried, Conf. Com. Rep. No. 28-06 was adopted and S.B. No. 3076, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL

FOR AN ACT RELATING TO COQUI FROGS,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 30-06 (S.B. No. 3065, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Menor, seconded by Senator Baker and carried, Conf. Com. Rep. No. 30-06 was adopted and S.B. No. 3065, S.D. 1, H.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE ONE CALL CENTER ADVISORY COMMITTEE,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 31-06 (S.B. No. 743, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Menor, seconded by Senator Hanabusa and carried, Conf. Com. Rep. No. 31-06 was adopted and S.B. No. 743, S.D. 2, H.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE UNIFORM SECURITIES ACT,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 34-06 (S.B. No. 2188, S.D. 1, H.D. 2, C.D. 1):

On motion by Senator Chun Oakland, seconded by Senator Hanabusa and carried, Conf. Com. Rep. No. 34-06 was adopted and S.B. No. 2188, S.D. 1, H.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO A COMMISSION ON FATHERHOOD,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 38-06 (S.B. No. 2360, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Kokubun, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 38-06 was adopted and S.B. No. 2360, S.D. 2, H.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO GROUNDED VESSELS,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 39-06 (S.B. No. 2485, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Kokubun, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 39-06 was adopted and S.B. No. 2485, S.D. 2, H.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO SPECIAL PURPOSE REVENUE BONDS,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 40-06 (S.B. No. 2487, H.D. 1, C.D. 1):

On motion by Senator Kokubun, seconded by Senator Inouye and carried, Conf. Com. Rep. No. 40-06 was adopted and S.B. No. 2487, H.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT

RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 46-06 (S.B. No. 2339, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Baker, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 46-06 was adopted and S.B. No. 2339, S.D. 2, H.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION TO THE DEPARTMENT OF HEALTH FOR THE EMERGENCY MEDICAL SERVICES SYSTEM BRANCH,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 47-06 (S.B. No. 2323, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Chun Oakland, seconded by Senator Hanabusa and carried, Conf. Com. Rep. No. 47-06 was adopted and S.B. No. 2323, S.D. 2, H.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO FEDERAL REVENUE MAXIMIZATION IN THE JUDICIARY,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 63-06 (H.B. No. 1809, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Inouye, seconded by Senator Ige and carried, Conf. Com. Rep. No. 63-06 was adopted and H.B. No. 1809, H.D. 2, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO MOTOR VEHICLE DRIVER’S LICENSE,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 66-06 (H.B. No. 2974, S.D. 1, C.D. 1):

On motion by Senator Kokubun, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 66-06 was adopted and H.B. No. 2974, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO HISTORIC PRESERVATION,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 68-06 (H.B. No. 3217, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Chun Oakland, seconded by Senator Tsutsui and carried, Conf. Com. Rep. No. 68-06 was adopted and H.B. No. 3217, H.D. 1, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO KUPUNA RECOGNITION DAY,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 69-06 (H.B. No. 2039, H.D. 2, S.D. 2, C.D. 1):



On motion by Senator Baker, seconded by Senator Hanabusa and carried, Conf. Com. Rep. No. 69-06 was adopted and H.B. No. 2039, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DECONTAMINATION OF ILLEGAL DRUG MANUFACTURING SITES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 70-06 (H.B. No. 2503, H.D. 2, S.D. 1, C.D. 1):

On motion by Senator Inouye, seconded by Senator Ige and carried, Conf. Com. Rep. No. 70-06 was adopted and H.B. No. 2503, H.D. 2, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DERELICT VEHICLE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 73-06 (H.B. No. 2991, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Menor, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 73-06 was adopted and H.B. No. 2991, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL PURPOSE REVENUE BONDS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 76-06 (H.B. No. 2848, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator English, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 76-06 was adopted and H.B. No. 2848, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ENERGY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 79-06 (H.B. No. 2271, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Kokubun, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 79-06 was adopted and H.B. No. 2271, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO NON-AGRICULTURAL PARK LANDS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 87-06 (H.B. No. 2805, S.D. 1, C.D. 1):

On motion by Senator Kokubun, seconded by Senator Inouye and carried, Conf. Com. Rep. No. 87-06 was adopted and H.B. No. 2805, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO STATE PLANNING," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 95-06 (H.B. No. 1021, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Menor, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 95-06 was adopted and H.B. No. 1021, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC UTILITIES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 96-06 (H.B. No. 2211, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Kanno, seconded by Senator Hanabusa and carried, Conf. Com. Rep. No. 96-06 was adopted and H.B. No. 2211, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DEFINITIONS FOR WORKERS' COMPENSATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 99-06 (H.B. No. 2678, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Kanno, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 99-06 was adopted and H.B. No. 2678, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 104-06 (S.B. No. 2901, H.D. 1, C.D. 1):

On motion by Senator Inouye, seconded by Senator Ige and carried, Conf. Com. Rep. No. 104-06 was adopted and S.B. No. 2901, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HIGHWAY IMPACT FEES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 108-06 (S.B. No. 696, S.D. 1, H.D. 2, C.D. 1):

On motion by Senator Hanabusa, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 108-06 was adopted and S.B. No. 696, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CRIMINAL HISTORY RECORD INFORMATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 116-06 (S.B. No. 2887, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Sakamoto, seconded by Senator Kanno and carried, Conf. Com. Rep. No. 116-06 was adopted and S.B. No. 2887, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 117-06 (S.B. No. 2090, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Kokubun, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 117-06 was adopted and S.B. No. 2090, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 119-06 (S.B. No. 3000, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Menor, seconded by Senator Ige and carried, Conf. Com. Rep. No. 119-06 was adopted and S.B. No. 3000, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HOUSING," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 120-06 (S.B. No. 2774, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Menor, seconded by Senator Kokubun and carried, Conf. Com. Rep. No. 120-06 was adopted and S.B. No. 2774, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HOUSING," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 121-06 (S.B. No. 3111, S.D. 1, H.D. 1, C.D. 1):

Senator Fukunaga moved that Conf. Com. Rep. No. 121-06 be adopted and S.B. No. 3111, S.D. 1, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

Senator Tsutsui requested his remarks in support of the measure be inserted into the Journal, and the Chair having so ordered, Senator Tsutsui's remarks read as follows:

"Mr. President, I rise in support.

"Congresswoman Mink became the first Asian-American woman to be elected to the Hawaii Territorial House, the first woman of color elected to the Congress, the first Asian-American elected to the U.S. House of Representatives and the first Asian-American woman to practice law in Hawaii.

"And as a father of two young girls, It is my hope that by honoring her legacy – we will continue in her drive to open the many doors that to this day remain either closed or obstructed to women and girls.

"Colleagues, Mink is celebrated as one of America's most important civil rights leaders, especially for co-authoring Title IX of the Educational Amendments of 1972, which led to expanded opportunities for women and girls in athletics and academics and to this day, preserves the rights of all genders.

In her honor, the Congress renamed the landmark legislation as the Patsy T. Mink Equal Opportunity in Education Act.

"For her contributions towards equal rights in the country, the Congress commissioned a likeness of her image to be forever placed in the halls of the U.S. Capitol building.

"Members, it is important to note that the U.S. Department of Education in a report titled, Title IX: 25 Years of Progress, wrote 'Even today as we acknowledge the many advances women have made in academics, employment and athletics, we still need to recognize some dismaying facts in our efforts to achieve equity. While sex discrimination is no longer routinely accepted in education and has been prohibited since Title IX became law, the incidences of sexual harassment and assault that are continually reported show that freedom from threats to learning still has not been achieved.'

"The report went on to state, 'Although women earn half of all college degrees, they are less likely than men to earn bachelor's degrees in computer science, engineering, physical sciences, or mathematics. At still higher levels of education, they account for only 17 percent of doctoral degrees in math and physical science, 14 percent of doctoral degrees in computer science and 7 percent of doctoral degrees in engineering. This gap takes on more significance still in the labor market where salaries are among the highest in mathematics/computer science and engineering – fields in which women are underrepresented. Without more equity in these fields at all levels, women will remain at the low end of positions and the pay scale in the information age.

"At the high school level, there are still about 24,000 more boys' varsity teams than girls' teams; in college, women receive only one-third of all athletic scholarships; and, overall operating expenditures for women's college sports programs grew only 89 percent, compared to 139 percent for men, representing only 23 percent of the total operating expenses.

"Even though women make up half of the labor market, not only are they underrepresented in jobs in scientific fields, but they are often paid less than men and despite women's large gains toward equal educational attainment and their accompanying gains in labor force participation, their earnings are only 80 percent of the earnings of their male counterparts with the same education – respectively, for graduates of four-year colleges.'

"A pioneer. A trailblazer. She was a very special daughter of Hawaii and with the state honoring her memory and service; we will continue to remind a nation of the importance of equality, peace and social justice. Further reminding Americans that regardless of gender, all Americans are entitled to equal access to quality education, to compete in athletics, and to work a job or profession for which they are qualified.

"I urge your support. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 121-06 was adopted and S.B. No. 3111, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT ESTABLISHING A COMMISSION TO RECOGNIZE AND HONOR CONGRESSWOMAN PATSY T. MINK," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 122-06 (S.B. No. 2727, S.D. 1, H.D. 2, C.D. 1):

On motion by Senator Baker, seconded by Senator Chun Oakland and carried, Conf. Com. Rep. No. 122-06 was adopted and S.B. No. 2727, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO NEUROTRAUMA," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 123-06 (S.B. No. 439, H.D. 2, C.D. 1):

On motion by Senator Hanabusa, seconded by Senator Ihara and carried, Conf. Com. Rep. No. 123-06 was adopted and S.B. No. 439, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ADMINISTRATIVE FINES UNDER THE STATE ETHICS CODE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 124-06 (S.B. No. 467, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Hanabusa, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 124-06 was adopted and S.B. No. 467, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CORRECTIONS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 125-06 (S.B. No. 1294, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Hanabusa, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 125-06 was adopted and S.B. No. 1294, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LAND TRUST REVENUES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 126-06 (S.B. No. 2898, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Baker, seconded by Senator Inouye and carried, Conf. Com. Rep. No. 126-06 was adopted and S.B. No. 2898, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 128-06 (S.B. No. 3072, S.D. 1, H.D. 2, C.D. 1):

On motion by Senator Kanno, seconded by Senator Menor and carried, Conf. Com. Rep. No. 128-06 was adopted and S.B. No. 3072, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE INSURANCE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 129-06 (S.B. No. 2343, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Baker, seconded by Senator Chun Oakland and carried, Conf. Com. Rep. No. 129-06 was adopted and S.B. No. 2343, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CRIMINAL HISTORY RECORD CHECKS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 130-06 (S.B. No. 2145, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator English, seconded by Senator Hanabusa and carried, Conf. Com. Rep. No. 130-06 was adopted and S.B. No. 2145, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE ENVIRONMENT," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 133-06 (S.B. No. 486, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Chun Oakland, seconded by Senator Ige and carried, Conf. Com. Rep. No. 133-06 was adopted and S.B. No. 486, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CHILDREN AND YOUTH," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 134-06 (S.B. No. 3003, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Chun Oakland, seconded by Senator Baker and carried, Conf. Com. Rep. No. 134-06 was adopted and S.B. No. 3003, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE PHARMACY ASSISTANCE PROGRAM," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 135-06 (S.B. No. 3215, S.D. 1, H.D. 2, C.D. 1):

On motion by Senator Chun Oakland, seconded by Senator Tsutsui and carried, Conf. Com. Rep. No. 135-06 was adopted and S.B. No. 3215, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CHILDREN," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 136-06 (S.B. No. 3247, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Chun Oakland, seconded by Senator Tsutsui and carried, Conf. Com. Rep. No. 136-06 was adopted and S.B. No. 3247, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CARE HOMES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 137-06 (S.B. No. 3252, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Chun Oakland, seconded by Senator Baker and carried, Conf. Com. Rep. No. 137-06 was adopted and S.B. No. 3252, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CAREGIVING," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 139-06 (S.B. No. 3078, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Kokubun, seconded by Senator Espero and carried, Conf. Com. Rep. No. 139-06 was adopted and S.B. No. 3078, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 141-06 (S.B. No. 845, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Inouye, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 141-06 was adopted and S.B. No. 845, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO COMMERCIAL DRIVER LICENSING," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 142-06 (S.B. No. 1899, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Kokubun, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 142-06 was adopted and S.B. No. 1899, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 143-06 (S.B. No. 2984, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Kokubun, seconded by Senator Hanabusa and carried, Conf. Com. Rep. No. 143-06 was adopted and S.B. No. 2984, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION TO THE KIKALA-KEOKEA HOUSING REVOLVING FUND," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 145-06 (S.B. No. 2753, S.D. 1, H.D. 2, C.D. 1):

On motion by Senator Kokubun, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 145-06 was adopted and S.B. No. 2753, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE OPERATION AND MAINTENANCE OF THE EAST KAUAI IRRIGATION SYSTEM," having been read

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

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 146-06 (S.B. No. 2486, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Kokubun, seconded by Senator English and carried, Conf. Com. Rep. No. 146-06 was adopted and S.B. No. 2486, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INVASIVE SPECIES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 147-06 (S.B. No. 2879, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Inouye, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 147-06 was adopted and S.B. No. 2879, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION TO THE HAWAII CIVIL AIR PATROL," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 148-06 (S.B. No. 2575, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Kokubun, seconded by Senator English and carried, Conf. Com. Rep. No. 148-06 was adopted and S.B. No. 2575, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR A BASELINE ENVIRONMENTAL STUDY OF THE WAIANAEO COAST OCEAN AREA," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 150-06 (S.B. No. 1648, S.D. 1, H.D. 2, C.D. 1):

On motion by Senator Sakamoto, seconded by Senator Hee and carried, Conf. Com. Rep. No. 150-06 was adopted and S.B. No. 1648, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TUITION ASSISTANCE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 151-06 (H.B. No. 1862, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Sakamoto, seconded by Senator Kanno and carried, Conf. Com. Rep. No. 151-06 was adopted and H.B. No. 1862, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Ige).

Conf. Com. Rep. No. 152-06 (H.B. No. 1891, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Sakamoto, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 152-06 was adopted and H.B. No. 1891, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 155-06 (H.B. No. 2669, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Kim, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 155-06 was adopted and H.B. No. 2669, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE CONVENTION CENTER ENTERPRISE SPECIAL FUND," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 157-06 (H.B. No. 2399, H.D. 2, S.D. 1, C.D. 1):

On motion by Senator Kokubun, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 157-06 was adopted and H.B. No. 2399, H.D. 2, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INTER-ISLAND FERRY SERVICE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 158-06 (H.B. No. 2075, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Inouye, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 158-06 was adopted and H.B. No. 2075, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 159-06 (H.B. No. 1880, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Kokubun, seconded by Senator Inouye and carried, Conf. Com. Rep. No. 159-06 was adopted and H.B. No. 1880, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HARBORS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 160-06 (H.B. No. 2214, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Inouye, seconded by Senator Menor and carried, Conf. Com. Rep. No. 160-06 was adopted and H.B. No. 2214, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO RENTAL MOTOR VEHICLE SURCHARGE TAX," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 161-06 (H.B. No. 2637, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Inouye, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 161-06 was adopted and H.B. No. 2637, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 164-06 (H.B. No. 1280, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Kokubun, seconded by Senator Hee and carried, Conf. Com. Rep. No. 164-06 was adopted and H.B. No. 1280, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FLOOD CONTROL," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 167-06 (H.B. No. 3259, H.D. 1, S.D. 2, C.D. 1):

Senator Baker moved that Conf. Com. Rep. No. 167-06 be adopted and H.B. No. 3259, H.D. 1, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Chun Oakland.

Senator Baker requested her remarks in support be inserted into the Journal, and the Chair having so ordered, Senator Baker's remarks read as follows:

"Mr. President, I rise in support of H.B. No. 3259, H.D. 1, S.D. 2, C.D. 1.

"This bill seeks to improve the State's ability to address the dental health crisis it faces with regard to QUEST-eligible adults and children, the developmentally disabled, and the uninsured. The bill provides funding to assess the status of the continuum of dental care for these populations. The assessment will provide the data necessary to address inequities in the system.

"Currently, Hawaii does not have a comprehensive assessment of its existing oral health resources that includes oral health community resources and gaps and barriers to access of oral health services. Without a dental school in Hawaii, a focus on public health dentistry and best practice models for special populations are lacking. The continuum of oral health care has service delivery gaps and barriers to access.

"27,000 Hawaii residents have no dental insurance. This includes immigrants, homeless people, and individuals above 100 percent poverty who will not enjoy the expansion of Med-QUEST eligibility. Even those who have Med-QUEST dental benefits find it difficult to find a dentist to serve them. Only 30 percent of Hawaii's qualified dentists accept Medicaid patients which ranks Hawaii 49th in participation of dentists in Medicaid. This gap is magnified when factoring the lack of dental services to the DD population. Lack of access to preventive dental care and prompt treatment of oral health issues is a healthcare cost driver. Poor dental health contributes to poor nutrition, infections in other parts of the body and the development of many other life-threatening conditions such as heart disease and stroke. A delay in dental care can lead to more costly treatments and poor health outcomes.

“At the heart of increasing access to dental health care is the need to build more physical capacity at community health centers or other community-based sites, train dental professionals to appropriately treat people with disabilities, coordinate hospital-based care, and develop a long-term workforce plan.

“The assessment called for in this bill will provide us with strategies to more efficiently use existing resources, leverage and pursue additional resources and provide a road map for system improvements. This measure is a reasoned step toward resolving the oral health challenges we face.

“I urge my colleagues to vote yes and take the first step towards a dental health solution for our state that is long overdue. Mahalo.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 167-06 was adopted and H.B. No. 3259, H.D. 1, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT MAKING AN APPROPRIATION FOR DENTAL HEALTH,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 168-06 (H.B. No. 3235, H.D. 1, S.D. 1, C.D. 1):

Senator Fukunaga moved that Conf. Com. Rep. No. 168-06 be adopted and H.B. No. 3235, H.D. 1, S.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

Senator Fukunaga requested his remarks in support of the measure be inserted into the Journal, and the Chair having so ordered, Senator Fukunaga’s remarks read as follows:

“Mr. President, I rise to speak in support of H.B. No. 3235, C.D. 1, Relating to the State of Hawaii Endowment Fund.

“The purpose of this measure is to support the Honolulu Symphony by appropriating \$4,000,000 for the State of Hawaii Endowment Fund, provided that the funds are matched on a dollar-for-dollar basis with private funds.

“This endowment fund was established in 1986 with an initial state appropriation of \$2,000,000. Through fundraising efforts over many years, the fund currently has a \$6,000,000 endowment managed by the Honolulu Symphony Foundation, and overseen by an eight-member board of directors. We should applaud their hard work in bringing the fund to this level in the absence of further state support. I believe this new \$4,000,000 appropriation is both long overdue and vital to the continued success of our very fine Honolulu Symphony.

“We should particularly commend the members of the Symphony who testified in strong support throughout this session and who attended every conference meeting on this bill. Their colorful shirts were a visual reminder of the role their music plays in all our lives. Thank you all for your perseverance.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 168-06 was adopted and H.B. No. 3235, H.D. 1, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE STATE OF HAWAII ENDOWMENT FUND,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 170-06 (H.B. No. 2626, S.D. 1, C.D. 1):

On motion by Senator Taniguchi, seconded by Senator Tsutsui and carried, Conf. Com. Rep. No. 170-06 was adopted and H.B. No. 2626, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO STATE BONDS,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 171-06 (H.B. No. 2540, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Hanabusa, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 171-06 was adopted and H.B. No. 2540, H.D. 2, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT MAKING AN APPROPRIATION FOR INCREASING STIPENDS FOR VOLUNTEER PRECINCT OFFICIALS,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 172-06 (H.B. No. 2051, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Hanabusa, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 172-06 was adopted and H.B. No. 2051, H.D. 1, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO PROTECTION FOR VICTIMS OF HUMAN TRAFFICKING,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 174-06 (H.B. No. 2045, H.D. 2, S.D. 1, C.D. 1):

On motion by Senator Baker, seconded by Senator Chun Oakland and carried, Conf. Com. Rep. No. 174-06 was adopted and H.B. No. 2045, H.D. 2, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO PERINATAL CARE,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 175-06 (H.B. No. 1821, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Chun Oakland, seconded by Senator Baker and carried, Conf. Com. Rep. No. 175-06 was adopted and H.B. No. 1821, H.D. 2, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO CARE HOMES,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 176-06 (S.B. No. 475, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Chun Oakland, seconded by Senator Tsutsui and carried, Conf. Com. Rep. No. 176-06 was adopted and S.B. No. 475, S.D. 2, H.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO PUBLIC ASSISTANCE,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 177-06 (S.B. No. 2334, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Chun Oakland, seconded by Senator Hanabusa and carried, Conf. Com. Rep. No. 177-06 was adopted and S.B. No. 2334, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION FOR THE HAWAII YOUTH CORRECTIONAL FACILITY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 178-06 (S.B. No. 3253, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Chun Oakland, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 178-06 was adopted and S.B. No. 3253, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CAREGIVING," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 180-06 (S.B. No. 2545, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Menor, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 180-06 was adopted and S.B. No. 2545, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONDOMINIUMS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 182-06 (S.B. No. 2897, S.D. 2, H.D. 3, C.D. 1):

On motion by Senator Inouye, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 182-06 was adopted and S.B. No. 2897, S.D. 2, H.D. 3, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 183-06 (S.B. No. 2273, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Kanno, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 183-06 was adopted and S.B. No. 2273, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 185-06 (S.B. No. 2958, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Menor, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 185-06 was

adopted and S.B. No. 2958, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HOUSING," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 188-06 (S.B. No. 2502, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Baker, seconded by Senator Chun Oakland and carried, Conf. Com. Rep. No. 188-06 was adopted and S.B. No. 2502, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR DONATED DENTAL SERVICES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 190-06 (S.B. No. 2484, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Kokubun, seconded by Senator English and carried, Conf. Com. Rep. No. 190-06 was adopted and S.B. No. 2484, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR VOG MONITORING STATIONS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 191-06 (S.B. No. 2480, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Kokubun, seconded by Senator English and carried, Conf. Com. Rep. No. 191-06 was adopted and S.B. No. 2480, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO WASTEWATER MANAGEMENT," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 192-06 (S.B. No. 2504, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Baker, seconded by Senator Ige and carried, Conf. Com. Rep. No. 192-06 was adopted and S.B. No. 2504, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PARKING FOR PERSONS WITH DISABILITIES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 194-06 (S.B. No. 3270, S.D. 2, H.D. 1, C.D. 1):

Senator Baker moved that Conf. Com. Rep. No. 194-06 be adopted and S.B. No. 3270, S.D. 2, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Chun Oakland.

Senator Baker requested her remarks in support be inserted into the Journal, and the Chair having so ordered, Senator Baker's remarks read as follows:

"Mr. President, I rise in support of S.B. No. 3270, S.D. 2, H.D. 1, C.D. 1.

“This bill seeks to ensure that the system of community health centers remains financially viable and stable to provide cost-effective care for a growing number of Hawaii residents who are uninsured. This measure codifies current federal requirement that federally qualified health centers and rural health clinics be reimbursed in accordance with a prospective payment system outlined in the Social Security Act. The safety net function of Health Centers results in many of our centers serving a patient population that is 80–90 percent Medicaid or uninsured. Cost shifting to insured populations is not possible. Year to year ambiguities in Medicaid and uninsured reimbursement make it extremely difficult to plan and deliver safety net services effectively. The Prospective Payment System (PPS) provides health centers the assurance of a reasonable and relatively stable system of reimbursement. The system also provides incentives for centers to be efficient and productive as revenues can only increase if productivity rises proportionately.

“Additionally, this bill appropriates \$2,000,000 to the Department of Health to reimburse the FQHC’s for the provision of direct medical care to the uninsured. Although there is some funding to reimburse the FQHC’s in the budget, the CEO of Waianae Coast Comprehensive noted in his recent communication to Conferees that the uninsured payment currently provided by the Department of Health does not cover an adequate range of primary care services or address inflation factors. This bill appropriates \$2,000,000 to assist in this area in light of the rising cost of healthcare and the number of uninsured that need services. The appropriation in this measure is necessary to ensure the viability of this important segment of our healthcare safety net. I would note that their original request was for an additional \$7,000,000.

“This is an important bill to our community health centers. I ask my colleagues to support this measure. Mahalo.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 194-06 was adopted and S.B. No. 3270, S.D. 2, H.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO PUBLIC HEALTH,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 199-06 (S.B. No. 2505, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Baker, seconded by Senator Sakamoto and carried, Conf. Com. Rep. No. 199-06 was adopted and S.B. No. 2505, S.D. 2, H.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT MAKES APPROPRIATIONS FOR SCHOOL-BASED SUBSTANCE ABUSE TREATMENT PROGRAMS FOR ADOLESCENTS,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 200-06 (S.B. No. 2274, S.D. 1, H.D. 2, C.D. 1):

On motion by Senator Kanno, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 200-06 was adopted and S.B. No. 2274, S.D. 1, H.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE EMPLOYEES’ RETIREMENT SYSTEM,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 202-06 (H.B. No. 2595, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Hanabusa, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 202-06 was adopted and H.B. No. 2595, H.D. 1, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO FAMILY VISITS,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 203-06 (H.B. No. 1865, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Sakamoto, seconded by Senator Kanno and carried, Conf. Com. Rep. No. 203-06 was adopted and H.B. No. 1865, H.D. 1, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF EDUCATION,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 204-06 (H.B. No. 1866, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Hee, seconded by Senator Sakamoto and carried, Conf. Com. Rep. No. 204-06 was adopted and H.B. No. 1866, H.D. 1, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO EDUCATION,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 206-06 (H.B. No. 2153, H.D. 2, S.D. 2, C.D. 1):

Senator Baker moved that Conf. Com. Rep. No. 206-06 be adopted and H.B. No. 2153, H.D. 2, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

Senator Baker requested her remarks be inserted into the Journal, and the Chair having so ordered, Senator Baker’s remarks read as follows:

“Mr. President, I rise in support of H.B. No. 2153, C.D. 1.

“The purpose of this bill is to provide outpatient, urgent, and extended medical care services to residents of West Maui, who do not have access to these services after normal physician or clinic hours. Because urgent medical care services are not available 24/7, residents of West Maui must drive over twenty-five miles one way to central Maui for treatment. Providing urgent care in West Maui could reduce the costs of health care by reducing costly visits to the Emergency Room at Maui Memorial Medical Center while providing needed medical services to residents in a more timely manner.

“Mr. President, West Maui is my district and I’m very familiar with the gaps in medical services provided in my home town. This measure appropriates \$300,000 for fiscal year 2006-2007 to the Department of Health to contract with a private or a non-profit health care provider. The funds contained in H.B. No. 2153 will help ensure that Lahaina residents and visitors who don’t require emergency care will have access to needed medical attention after the clinics close.



"I ask my colleges to join me to vote in favor of H.B. No. 2153. Mahalo."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 206-06 was adopted and H.B. No. 2153, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 212-06 (S.B. No. 2630, S.D. 2, H.D. 1, C.D. 1):

Senator Baker moved that Conf. Com. Rep. No. 212-06 be adopted and S.B. No. 2630, S.D. 2, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Chun Oakland.

Senator Baker requested her remarks be inserted into the Journal, and the Chair having so ordered, Senator Baker's remarks read as follows:

"Mr. President, I rise in support of S.B. No. 2630, C.D. 1.

"The purpose of this appropriations bill is to provide for the continued operation of developmental disabilities domiciliary homes and apartment complexes for persons with developmental disabilities.

"In 2005, the Hawaii State Legislature enacted Act 168, authorizing the Department of Health to enter into contracts for additional payments for residential services to the providers of DD domiciliary homes and operators of DD apartment complexes. This legislation was necessary in order to keep homes operating for this vulnerable population. It was noted then that a significant reason for the reduction of DD care facilities was related to the low reimbursement rates provided by the State. Those reimbursement rates did not reflect the current cost of maintaining the operation of the homes.

"It is important that our housing stock for the DD population is not lost to them. This bill continues the financial support begun in Act 168 and allows the developmentally disabled to retain viable residential options. I urge all of my colleges to support this measure.

"Thank you Mr. President."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 212-06 was adopted and S.B. No. 2630, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR DEVELOPMENTAL DISABILITIES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 215-06 (S.B. No. 2980, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Sakamoto, seconded by Senator Hee and carried, Conf. Com. Rep. No. 215-06 was adopted and S.B. No. 2980, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 216-06 (S.B. No. 3197, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Sakamoto, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 216-06 was adopted and S.B. No. 3197, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SUBSTITUTE TEACHERS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 217-06 (S.B. No. 3059, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Sakamoto, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 217-06 was adopted and S.B. No. 3059, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 220-06 (S.B. No. 2076, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Menor, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 220-06 was adopted and S.B. No. 2076, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LEASEHOLD CONVERSION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 222-06 (S.B. No. 2708, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Sakamoto, seconded by Senator Menor and carried, Conf. Com. Rep. No. 222-06 was adopted and S.B. No. 2708, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SCHOOL FACILITIES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 223-06 (S.B. No. 2719, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Sakamoto, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 223-06 was adopted and S.B. No. 2719, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 224-06 (H.B. No. 3105, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Baker, seconded by Senator Chun Oakland and carried, Conf. Com. Rep. No. 224-06 was adopted and H.B. No. 3105, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PSYCHOTROPIC MEDICATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 229-06 (H.B. No. 3244, H.D. 1, S.D. 2, C.D. 1):

Senator Fukunaga moved that Conf. Com. Rep. No. 229-06 be adopted and H.B. No. 3244, H.D. 1, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Menor.

Senator Fukunaga requested his remarks in support of the measure be inserted into the Journal, and the Chair having so ordered, Senator Fukunaga's remarks read as follows:

"Mr. President, I rise to speak in favor of the entire package of Identity Theft bills and ask that these remarks be inserted in the Journal for S.B. No. 2158, C.D. 1; S.B. No. 2159, C.D. 1; S.B. No. 2290, C.D. 1; S.B. No. 2292, C.D. 1; S.B. No. 2293, C.D. 1; H.B. No. 1871, C.D. 1; H.B. No. 2535, S.D. 2, and H.B. No. 3244, C.D. 1:

"These measures were introduced as a result of the work of the Hawaii Anti-Phishing Task Force, established by Act 65, Session Laws of Hawaii 2005, to develop state policy on how best to prevent further occurrences of phishing and other forms of electronic commerce-based crimes in the State. The Task Force examined state agencies charged with the responsibility of developing policies, procedures and operations to prevent, monitor, and enforce electronic commerce-based criminal activities and sanctions; reviewed other jurisdictions' activities, policies, and laws related to the prevention of electronic commerce-based crimes; and reviewed a range of options available to deter electronic commerce-based crimes from occurring in the State.

"Through this process the Task Force broadened the scope of its research – and recommendations – to address the rapidly escalating problem of identity theft. For example, just last month we learned that more than 40,000 Hawaii residents who enrolled in certain health and group life insurance plans in 1999 are at risk for identity theft following the theft of some insurance company records. 22,000 private sector employees and 21,500 members of the Hawaii Government Employees Association and the United Public Workers union must now begin the process of it checking their financial records. And for those who find cases of identity theft, the process of clearing their records and restoring their credit may take years.

"The purpose of the bills before you today is to provide substantial protections from identity theft for the residents of Hawaii through a variety of ways:

"S.B. No. 2158, C.D. 1, authorizes government agencies, effective July 1, 2007, to continue to collect, create, or maintain records or documents containing an individual's social security number in the course of carrying out the agency's legitimate government functions, but agencies may not display the social security numbers in any public record or document that is available for public inspection.

"S.B. No. 2159, C.D. 1, makes it a class C felony to intentionally or knowingly possess confidential information of another without authorization; and adds identity theft as an enumerated offense within the repeat offender statute. It provides our country law enforcement.

"S.B. No. 2290, C.D. 1, requires government and businesses that possess personal information of Hawaii residents and experience a security breach to notify people affected by the breach.

"S.B. No. 2292, C.D. 1, requires businesses and government agencies that dispose of documents and other records containing personal information of Hawaii residents to destroy the records to protect against unauthorized access to or use of the information.

"S.B. No. 2293, C.D. 1, prohibits businesses and government agencies, subject to limited exceptions, from disclosing an individual's social security number to the general public, printing the number on an identification card or in mailings to customers, or requiring the transmission of the number to third parties.

"In addition, S.B. No. 2290, S.B. No. 2292, and S.B. No. 2293 establish similar penalty provisions to allow the Attorney General or the Office of Consumer Protection to bring a cause of action against any business that violates any provision of this measure, and to seek a penalty of not more than \$2,500 for each violation; allow a private cause of action for the sum equal to the actual damages sustained by the injured party; allow the court to award reasonable attorneys' fees to the prevailing party, and clarify that both penalty actions cannot be brought against a government agency. They also set similar reporting standards for government agencies to submit a written report to the Legislature unless the report will impede a criminal investigation.

"H.B. No. 1871, C.D. 1; allows consumers who are victims of identity theft to place a security freeze on their credit reports, which will prohibit a consumer reporting agency from releasing any information to unauthorized parties without the consumer's express authorization and will provide consumers more control over who has access to their credit report. Penalties are comparable to those of S.B. No. 2290, S.B. No. 2292, and S.B. No. 2293: to allow up to \$2,500 in penalties for each violation of the new chapter and authorize the Attorney General or the Office of Consumer Protection to bring actions; allow injured parties to bring actions against violators for actual damages caused by the violation; allow reasonable attorneys' fees for prevailing parties in actions for damages; and provides that the penalties are cumulative to the remedies or penalties available under all other State laws.

"H.B. No. 2535, S.D. 2, amends current Hawaii law for offense of use of a computer in the commission of a separate crime to include use of a computer to obtain control over the property of the victim or to facilitate commission of the offense of theft in the first or second degrees.

"H.B. No. 3244, C.D. 1, makes changes to the task force working on identity theft issues by changing the name to the Identity Theft Task Force, adding additional members, expanding its responsibilities, and extending its life until December 31, 2007. The bill appropriates \$50,000 to the Auditor to staff the work of the task force, and \$50,000 to the Attorney General to compile a uniform identity theft complaint tracking system.

"Many people have worked on bringing these bills to today's vote, particularly the members of the Task Force. It has truly been a public-private sector collaboration. While we have much work left to do, these bills provide both a strong foundation in the State's fight against identity theft; and valuable resources that Hawaii residents can use to protect themselves from financial harm if their financial or personal information is compromised."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 229-06 was adopted and H.B. No. 3244, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO

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

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 230-06 (H.B. No. 970, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Taniguchi, seconded by Senator Fukunaga and carried, Conf. Com. Rep. No. 230-06 was adopted and H.B. No. 970, H.D. 1, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO EMERGENCY RELIEF FOR NATURAL DISASTERS,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 235-06 (H.B. No. 2966, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Menor, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 235-06 was adopted and H.B. No. 2966, H.D. 2, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO HOUSING,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

At 3:58 o’clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 4:09 o’clock p.m.

S.B. No. 2917, H.D. 3:

By unanimous consent, action on S.B. No. 2917, H.D. 3, was deferred to the end of the calendar.

**FINAL READING**

**MATTER DEFERRED FROM FRIDAY, APRIL 21, 2006**

Conf. Com. Rep. No. 2-06 (S.B. No. 995, S.D. 1, H.D. 1, C.D. 1):

Senator Hanabusa moved that Conf. Com. Rep. No. 2-06 be adopted and S.B. No. 995, S.D. 1, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

Senator Slom rose to speak in opposition as follows:

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

“We’ve discussed this before. The folks coming in that were appointed as judges knew what the retirement age was. We do have legitimate reasons for certain retirement ages, and this happens to be one of them.

“Members of the Judiciary testified against this measure saying that basically it would be a barrier to entry for younger aspiring justices. But more importantly, one must question why this bill at this time? There’s no rational reason for this bill other than maybe to protect one or two existing justices. If the bill were made prospective, if we said starting in 2007 or with new justices after 2006, that would make sense, but it’s highly suspect and highly undesirable. Thank you.”

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

The motion was put by the Chair and carried, Conf. Com. Rep. No. 2-06 was adopted and S.B. No. 995, S.D. 1, H.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE VI, SECTION 3, OF THE HAWAII CONSTITUTION TO REMOVE THE MANDATORY RETIREMENT AGE FOR STATE JUSTICES AND JUDGES,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, 6 (Hemmings, Hogue, Ihara, Slom, Trimble, Whalen).

**FINAL READING**

**MATTER DEFERRED FROM FRIDAY, APRIL 28, 2006**

Conf. Com. Rep. No. 15-06 (S.B. No. 2237, S.D. 1, H.D. 1, C.D. 1):

Senator Inouye moved that Conf. Com. Rep. No. 15-06 be adopted and S.B. No. 2237, S.D. 1, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

Senator Trimble rose in opposition and stated:

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

“This measure has to do with which fund will a payment of insurance for building damage be deposited in. And it sounds reasonable that if a school was destroyed by fire or partially destroyed by fire, that rightfully when the insurance claim came in that was honored it would go into the Department of Education. But right now it is currently put into a fund or risk management fund.

“The issue is will it do anything by changing where the money is deposited? And the answer is ‘no,’ it won’t make any difference because the money hasn’t been appropriated. When we appropriate it, we say where the money is coming from. So, just passing this bill does affect the appropriation part.

“Second, when there is damage at the structure, we need to make a decision. The Executive Branch needs to make a decision – do we want to rebuild or do we want to build something new? If it goes directly to the department the tendency of a bureaucracy is, if I don’t rebuild immediately, I’m going to lose the money. I don’t think we want to encourage that behavior. We want decisions by the state to be rationally made of the best use of that money, and in some cases, rebuilding is not the best use of that money. Thank you.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 15-06 was adopted and S.B. No. 2237, S.D. 1, H.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO STATE RISK MANAGEMENT,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Trimble).

**FINAL READING**

Conf. Com. Rep. No. 17-06 (S.B. No. 1223, S.D. 2, H.D. 1, C.D. 1):

Senator Menor moved that Conf. Com. Rep. No. 17-06 be adopted and S.B. No. 1223, S.D. 2, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

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

“Mr. President, I again rise in opposition.

“Colleagues, this would increase the penalty for issuing a rubber ducky – a bounced check – from \$20 to \$30. In this age of increased technology, in this age when banks no longer return checks, I don’t see how the costs are going up. If anything, we should be lowering the cost of having a returned check. Thank you.”

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

The motion was put by the Chair and carried, Conf. Com. Rep. No. 17-06 was adopted and S.B. No. 1223, S.D. 2, H.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO NEGOTIABLE INSTRUMENTS,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 18. Noes, 7 (Chun Oakland, English, Hemmings, Hogue, Hooser, Inouye, Trimble).

Conf. Com. Rep. No. 20-06 (S.B. No. 3180, S.D. 1, H.D. 2, C.D. 1):

Senator Hanabusa moved that Conf. Com. Rep. No. 20-06 be adopted and S.B. No. 3180, S.D. 1, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Ige.

Senator English rose and said:

“Mr. President, I’d like to insert comments into the Journal.”

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

“This measure would require counties to adopt ordinances to allow the construction of buildings designed using practices, styles, customs, and materials from indigenous Hawaiian architecture. Mr. President, there are three key rights to be affirmed by this measure:

1. Section 7 of article XII of the Constitution of the State of Hawaii says that ‘The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes . . . by native Hawaiians.’
2. Section 7-1, Hawaii Revised Statutes, further reserves the right of the people to take house-timber from lands upon which they reside.
3. Chapter 36 of the Maui County Code allows the use of indigenous Hawaiian architecture in the design and construction of structures in the county of Maui.

“The purpose of this Act is to allow the use of the techniques, styles, and customs of indigenous Hawaiian architecture to be employed in present-day construction in Hawai`i. I urge my colleagues to support this measure.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 20-06 was adopted and S.B. No. 3180, S.D. 1, H.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE

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

Ayes, 24. Noes, 1 (Trimble).

Conf. Com. Rep. No. 24-06 (S.B. No. 2004, S.D. 1, H.D. 1, C.D. 1):

Senator Kokubun moved that Conf. Com. Rep. No. 24-06 be adopted and S.B. No. 2004, S.D. 1, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Hee.

Senator Hogue rose in opposition to the measure and stated:

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

“I do so based on testimony before the Committee that came forward on this particular measure trying to protect a certain area in Kaneohe Bay, and based on supportive testimony, this measure moved forward, which was considered somewhat of a compromise. I suggest that we should oppose it based on the entire needs of Kaneohe Bay, and rather than DLNR setting forward rules for Kaneohe Bay, why not the people who actually use Kaneohe Bay setting those rules? There is a body that does exactly that and in fact it is called the Kaneohe Bay Regional Council. Shouldn’t they be deciding what the usage of Kaneohe Bay should be? It just makes absolute sense. Then everyone can get heard, not just one little segment here who wants to preserve a particular area.

“So, did the Kaneohe Bay Regional Council, did they weigh in on this measure? Yes, they have since there was testimony at the Committee. I’ve been in receipt of a resolution by the Kaneohe Bay Regional Council relating to S.B. No. 2004, S.D. 1, H.D. 1. It says, ‘Whereas the Kaneohe Bay Regional Council is made up of representatives of the community, commercial interest and governmental agencies who were selected for their expertise and interest in matters, issues, relating to Kaneohe Bay; Whereas the regularly scheduled and convened meeting of the council, members consider the merit of this particular measure and the members of the council would like the members of the Legislature to know that they agree with the intent of these measures but they are concerned that the passage of those measures may result in the creation of administrative rules that would adversely affect the public’s ability to enjoy and recreate at or around the natural resource within Kaneohe Bay know as Ahu o Laka.’

“There is even a debate right now about how large of an area this is. Is it several hundred square feet? Is it many acres? Is it huge? Is it small? The bill even talks about the water surrounding it and DLNR would manage the rules, not the people who are affected by it – the Kaneohe Bay Regional Council.

“So, the Kaneohe Bay Regional Council, by unanimous vote, desires to express its opposition for the passage of this bill. These are the people who work and live and who have interest in this particular measure. And so, based on those people, I urge you to follow suit and also oppose this bill. Thank you so much.”

At 4:18 o’clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 4:24 o’clock p.m.

Senator Kokubun rose to speak in support of the measure and stated:

“Mr. President, I stand in support of S.B. No. 2004.

"Mr. President, I appreciate the comments by the previous speaker with respect to the Kaneohe Bay Regional Advisory Committee. I think that they do play a valuable role. However, I'd just like to point out for our colleagues that with respect to the enforcement provisions in Kaneohe Bay, the Department of Land and Natural Resources, through its division of conservation and resource enforcement, is actually the body that can provide the enforcement of any rules that are adopted with respect to Ahu o Laka.

"I'd also like to make it clear that in the rule-making process, Mr. President, the administrative rule-making process, they will go through an extensive public hearing. The final draft of the rules will have to be adopted by the land board. There will be numerous opportunities for any concerned citizen to participate in the rule-making process, but I think that, at this point, to halt the bill based on only those contentions that one advisory committee group would like to have more input, I think they will have lots more opportunity for that and I think that's the appropriate time. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 24-06 was adopted and S.B. No. 2004, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HISTORIC PRESERVATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 18. Noes, 6 (Bunda, Hemmings, Hogue, Slom, Trimble, Whalen). Excused, 1 (Menor).

Conf. Com. Rep. No. 33-06 (S.B. No. 2162, S.D. 2, H.D. 1, C.D. 1):

Senator Chun Oakland moved that Conf. Com. Rep. No. 33-06 be adopted and S.B. No. 2162, S.D. 2, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Hanabusa.

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

"Mr. President, I stand in opposition to S.B. No. 2162.

"This bill provides that foster children whose parents can afford it, the parents will be forced to buy automobile insurance so that the child now living with them can drive. And the issue I'd like to call to mind is the desire of kids, particularly my gender, to drive is so strong that if we pass this measure, we might find happening in Hawaii something similar to what occurred many years ago in Bermuda. Bermuda passed a law saying that there would only be one automobile per household, per house. What they found out was the kids were leaving their parents as soon as they possibly could so that they could get the car so they could drive.

"I suggest that when you consider this bill, you consider that not only are automobile insurance rates dependent upon the vehicle driven, but also the behavior of kids when they're faced with a situation that their parents say, 'no, you're not going to drive,' they say, 'well daddy-o, I've figured out a loophole and one of the loopholes is to become a foster kid.'

"So, before you vote, think about it. Cast your conscience. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 33-06 was adopted and S.B. No. 2162, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO

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

Ayes, 21. Noes, 3 (Hemmings, Slom, Trimble). Excused, 1 (Nishihara).

Conf. Com. Rep. No. 37-06 (S.B. No. 2248, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Menor, seconded by Senator Hanabusa and carried, Conf. Com. Rep. No. 37-06 was adopted and S.B. No. 2248, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SOLICITATION OF FUNDS FOR CHARITABLE PURPOSES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 41-06 (S.B. No. 2909, S.D. 1, H.D. 2, C.D. 1):

On motion by Senator Ige, seconded by Senator Inouye and carried, Conf. Com. Rep. No. 41-06 was adopted and S.B. No. 2909, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PERMIT APPROVALS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 3 (Slom, Trimble, Whalen). Excused, 1 (Nishihara).

Conf. Com. Rep. No. 42-06 (S.B. No. 3262, S.D. 1, H.D. 1, C.D. 1):

Senator Baker moved that Conf. Com. Rep. No. 42-06 be adopted and S.B. No. 3262, S.D. 1, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Kanno.

Senator Slom rose to speak in opposition as follows:

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

"I know the politically correct thing and easy thing to do would be to vote for this bill or let this bill go through, but I can't do that because it's not politically correct.

"The discussion of secondhand smoke is one issue and the debate goes on as to what the actual consequences are with secondhand smoke. And there are many studies that show that it is very detrimental, carcinogen causing, and so forth. There are also studies that show that in fact there has not been a direct nexus made.

"Be that as it may, what this bill is really about is a further ban on a legal activity, that's smoking. We've already seen that smokers and retail establishments have compromised and compromised and compromised in terms of making space available. We also know that there are a significant number of people who choose to smoke knowing and accepting health risks and other risks, but it's their choice. What we are doing in this bill and the bill later on is to seek them out and punish them specifically. We're not looking at health as much as we're looking at a way of getting at these smokers, and the reason for that is they have become easy prey. It has become socially unacceptable to smoke unless you are in a grade B movie and then it's very desirable to do so, and unless it's to tax because then that's a very profitable thing to do. We have already basically said to these people that have made their choice and want to exercise their right, that in fact they have no rights.

“There was an issue that came up during discussion of this bill when somebody said wait a minute, we hear that some of the proponents want to ban the use of cigarettes or smoking in your private automobile and your private residence, and some of the individual supportive Legislators said that’s not true, this year. The handwriting is clearly on the wall that those people that are seeking this smoking ban really will not rest until there is a total ban and until we criminalize, criminalize people that are mostly older people, people that have very little opportunities for their own recreation in life and quite frankly enjoy what they are doing. We are making of them the pariah, even though we’re still taking about a legal activity.

“So we can argue about health concerns, but until we discuss all of the other health concerns such as vog and toxic materials and so forth, singling out people that are engaging in a legal activity is neither fair nor right nor compassionate. Thank you.”

Senator Baker rose in support of the measure and said:

“Mr. President, I have some extensive remarks that I’d like inserted into the Journal, but I’d like to have the opportunity, as I rise in support of this measure, to discuss some of the points the previous speaker made.

“First of all, the Centers for Disease Control and Prevention consider secondhand smoke so dangerous that they’ve advised people with heart conditions to avoid exposure for even 30 minutes due to increased risk of heart attack. What happens? Well, within five minutes of exposure to secondhand smoke, blood platelets become stickier. Within 15 minutes, blood vessels are scarred. When blood vessel walls are scarred, additional plaque is attached to the walls, narrowing the vessels. Within 30 minutes of exposure, the risk for a heart attack doubles.

“The scientific evidence reinforces the conclusions that secondhand smoke causes heart disease, cancer, sudden infant death syndrome, and other diseases. Recent studies provide new findings linking secondhand smoke exposure to preterm and low birth weight babies, asthma and breast cancer.

“Tobacco use remains the number one preventable cause of death in both the nation and Hawaii. So it’s not just a matter of trampling on smoker’s rights, it’s making sure that the overwhelming majority of the population is not exposed to a preventable cause of death. Over 1/3 of the state’s 630,000 workers are exposed to secondhand smoke every day of their work life. An estimated 53,000 nonsmokers die each year in the United States as a result of secondhand smoke exposure, including 35,000 from coronary heart disease associated with secondhand smoke.

“Mr. President, we had two wonderful citizens of Maui just recently diagnosed with a very aggressive form of lung cancer. They never smoked a day in their lives, but they were in situations where they were forced to inhale other people’s smoke. So it’s really not that we don’t like smokers; we’re going after smokers, but their habits and their preference is not just an annoyance, it can be a death sentence for people that inhale it over long periods of time.

“California has done some wonderful studies since they became the first state to declare secondhand smoke a toxic air pollutant. The decision by the California Air Resources Board puts secondhand smoke in the same category as diesel exhaust, arsenic and benzene and blamed it for over 4,000 deaths each year in California from lung cancer and heart disease alone. A study done at the University of California at San Francisco reported secondhand smoke was found to be three times more

toxic to tissue culture cells than mainstream smoke itself. So, in many ways, secondhand smoke is more harmful to the rest of us than the smoker if you could contain that smoker and not let his smoke escape.

“Mr. President, we are joining 10 other states – Washington State passed a statewide ban in December of last year; New Jersey early this year. A number of other countries around the world are recognizing the health costs and health risks of secondhand smoke. So we’re joining Australia, Ireland, Scotland, Great Brittan, Italy, and even places in Japan. We think of Japan as having a nation full of smokers, but even the Japanese have recognized the costs involved in healthcare, loss of worker productivity, and others.

“The studies that have been analyzed by organizations such as the American Cancer Society, the American Lung Association, the American Heart Association indicate that secondhand smoke ordinances in other states really have not hurt business as some have alleged and in fact have contributed to an increase in business. Indeed, the data indicates that the public would strongly favor smoke-free workplaces and smoke-free public places that are enclosed, and that’s what this bill does. With the growing national trend to become smoke-free, Hawaii is definitely in line with the rest of the country and even the world.

“I’d like to say mahalo to the Coalition for a Tobacco-Free Hawaii, the county coalitions, the volunteers for the American Cancer Society, the American Lung Association of Hawaii, the American Heart Association for all of the time and energy that they have put in to come up with a measure that has gained wide public support from businesses, from labor, from health professionals, from just people who want to be able to breathe clean, fresh air. They’ve helped to change the culture in our state and they have actually helped us craft a measure that has such broad support that I think the citizens in this state, when they have this measure go into effect on the date of the Great American Smoke Out on November 16, 2006, will use that as an opportunity to kick the habit and avail themselves the other opportunities in our state to help them remain smoke free.

“Mr. President and colleagues, this is an excellent bill. I thank all of the ones who have worked very hard on this measure and I urge everyone to vote in support.”

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

“Mr. President, I rise in support of S.B. No. 3262 which will protect the public health and welfare by prohibiting smoking in places open to the public and places of employment, thereby ensuring a consistent level of basic protections statewide from exposure to secondhand smoke.

“The Department of Health reported to your Health Committee that the current statute is obsolete and needs to reflect the most current public health science and public policy relating to secondhand smoke. The medical evidence amassed to date confirms and expands the science on the health hazards of secondhand smoke in both adults and children.

“The Center for Disease Control and Prevention (CDC) considers secondhand smoke so dangerous they have advised people with heart conditions to avoid exposure for even 30 minutes due to increased risk of heart attack. Within 5 minutes of exposure to secondhand smoke blood platelets become stickier. Within 15 minutes of exposure, scarring of the blood vessel walls occurs causing plaque. Within 30 minutes of exposure, the risk for heart attack doubles.

“The evidence reinforces conclusions that secondhand smoke causes heart disease, cancer, SIDS and other diseases, and provides new findings linking secondhand smoke exposure to pre-term delivery, asthma, and breast cancer. Tobacco use remains the number one preventable cause of death in both the nation and Hawai’i. Over one-third of the State’s 630,000 workers are exposed daily to secondhand smoke. An estimated 53,000 non-smokers die each year in the United States as a result of secondhand smoke exposure, including 35,000 from coronary heart disease associated with secondhand smoke exposure.

“In October of 2005, the Coalition for a Tobacco Free Hawai’i conducted a poll of registered voters and found that 85 percent support a statewide law that would prohibit smoking in most enclosed public places, including workplaces, public buildings, offices, bars, nightclubs, and restaurants across the state. 95 percent of Hawai’i’s people believe workers should be protected from exposure to secondhand smoke and that restaurants and bars would be healthier for customers and employees if they were smoke free.

“California became the first state to declare secondhand smoke a toxic air pollutant. The decision by the California Air Resources Board puts secondhand smoke in the same category as diesel exhaust, arsenic and benzene and blamed it for 4,000 deaths each year in California from lung cancer and heart disease alone. A study done at the University of California at San Francisco reported, secondhand smoke was found to be three times more toxic to tissue culture cells than mainstream smoke.

“In Helena, Montana the city council passed comprehensive smoking restrictions on all indoor workplaces. Upon the law’s implementation, the lone hospital in the city that treats heart attack patients recorded an immediate 40 percent decline in heart attack admissions. When the state government preempted the city law and allowed smoking to begin again 6 months from the date of the city law’s implementation, heart attack admission rates at the hospital climbed 40 percent back to their original levels. Another study completed in Pueblo, Colorado found a 29 percent decrease in heart attack admissions after secondhand smoking legislation was enacted.

“Hawaii needs a comprehensive state law that sets a high floor on smoking restrictions. Recognizing these dangers, 11 states (including WA 12/05 and NJ early 1/06) have passed comprehensive legislation addressing secondhand smoke in all workplaces and public places. At least 9 other states are currently considering similar legislation and 8 foreign countries have enacted comprehensive smoking legislation: including Japan, Australia, Ireland, Scotland, and many others.

“Some businesses have feared that going smoke-free would harm their livelihoods. Studies analyzed by organizations such as the Hawaii affiliates of the American Cancer Society and the American Lung Association indicate that secondhand smoke ordinances in other states have not hurt business and in fact have increased business. Indeed, the data indicates that the public would strongly favor smoke-free workplaces and enclosed public places.

“There is a growing trend in the country today as states across the nation enact smoke-free laws. It is good for business, it is good for our people, and it is good for public health. I strongly urge a ‘yes’ vote on S.B. No. 3262.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 42-06 was adopted and S.B. No. 3262, S.D. 1, H.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO

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

Ayes, 22. Noes, 3 (Slom, Trimble, Whalen).

Conf. Com. Rep. No. 43-06 (S.B. No. 3192, S.D. 1, H.D. 2, C.D. 1):

Senator English moved that Conf. Com. Rep. No. 43-06 be adopted and S.B. No. 3192, S.D. 1, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

Senator Trimble rose in opposition and stated:

“Mr. President, I rise in opposition to S.B. No. 3192.

“Colleagues, what this bill does is create a panel that reviews our city and sister-state relations. I think having a panel to do this is appropriate. My problem is the makeup of the committee. I think the committee needs to include representatives from the Chamber of Commerce. Thank you.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 43-06 was adopted and S.B. No. 3192, S.D. 1, H.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO SISTER STATE AND PROVINCE RELATIONSHIPS,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 44-06 (S.B. No. 3105, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator English, seconded by Senator Menor and carried, Conf. Com. Rep. No. 44-06 was adopted and S.B. No. 3105, S.D. 2, H.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO DEPOSIT BEVERAGE CONTAINER PROGRAM,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Slom).

Conf. Com. Rep. No. 45-06 (S.B. No. 3185, S.D. 2, H.D. 2, C.D. 1):

Senator English moved that Conf. Com. Rep. No. 45-06 be adopted and S.B. No. 3185, S.D. 2, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Menor.

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

The motion was put by the Chair and carried, Conf. Com. Rep. No. 45-06 was adopted and S.B. No. 3185, S.D. 2, H.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO ENERGY,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Slom).

#### FINAL READING

#### MATTER DEFERRED FROM FRIDAY, APRIL 21, 2006

Conf. Com. Rep. No. 51-06 (H.B. No. 1917, H.D. 2, S.D. 2, C.D. 1):

Senator Hanabusa moved that Conf. Com. Rep. No. 51-06 be adopted and H.B. No. 1917, H.D. 2, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

Senator Slom rose in opposition to the measure and said:

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

“As I’ve said previously, the idea of setting up a salary commission to hide the fact that we’re going to get salary increases and benefit increases I think is something that cheats the public and taxpayers who pay for all of our salaries and all of our benefits and everything else. Putting it in the constitution makes it easier for those increases to continue without any input whatsoever from the public and no input from the Legislature unless they choose to vote against it.

“It is a sure way of increasing salaries. It is a sure way of increasing the cost to government and it’s a sure way of masking transparency.”

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

The motion was put by the Chair and carried, Conf. Com. Rep. No. 51-06 was adopted and H.B. No. 1917, H.D. 2, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT PROPOSING AMENDMENTS TO THE HAWAII CONSTITUTION RELATING TO THE ESTABLISHMENT OF A SALARY COMMISSION,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 5 (Hemmings, Hogue, Ihara, Slom, Trimble).

#### FINAL READING

Conf. Com. Rep. No. 65-06 (H.B. No. 3121, H.D. 2, S.D. 1, C.D. 1):

Senator Inouye moved that Conf. Com. Rep. No. 65-06 be adopted and H.B. No. 3121, H.D. 2, S.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

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

“Mr. President, I rise in opposition to H.B. No. 3121.

“This bill has to do with determining or asking the state to determine which public shelters will have pets. My problem is that one person’s pet is another person’s protein. They eat horses in Europe. It may or may not be appropriate to have one person’s pet at a shelter where there are small children and infants.

“I will be casting a ‘nay’ vote on this bill for that reason.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 65-06 was adopted and H.B. No. 3121, H.D. 2, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO CIVIL DEFENSE,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Trimble).

Conf. Com. Rep. No. 72-06 (H.B. No. 2555, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Kokubun, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 72-06 was adopted and H.B. No. 2555, H.D. 2, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 77-06 (H.B. No. 1706, H.D. 3, S.D. 1, C.D. 1):

On motion by Senator English, seconded by Senator Hanabusa and carried, Conf. Com. Rep. No. 77-06 was adopted and H.B. No. 1706, H.D. 3, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE UNIFORM ENVIRONMENTAL COVENANTS ACT,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 78-06 (H.B. No. 439, H.D. 1, S.D. 2, C.D. 1):

Senator Inouye moved that Conf. Com. Rep. No. 78-06 be adopted and H.B. No. 439, H.D. 1, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Hanabusa.

Senator Slom rose in opposition to the measure and stated:

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

“The bill in Conference Committee came out better than it had been before in limiting the Office of the Ombudsman to only the tax information of the person making the complaint. However, again the issue arises when we are so concerned about identity theft and we’re so concerned about privacy and so concerned about records, particularly tax records, why does the ombudsman need these records at all? If the complainant wants to provide information, the complainant can do so, but to put this in a statute to require it and allow the ombudsman to do it may also lead to expansion and to excesses. Thank you.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 78-06 was adopted and H.B. No. 439, H.D. 1, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE OFFICE OF THE OMBUDSMAN,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, 5 (Hemmings, Hogue, Slom, Trimble, Whalen). Excused, 1 (Taniguchi).

Conf. Com. Rep. No. 81-06 (H.B. No. 2265, H.D. 2, S.D. 1, C.D. 1):

On motion by Senator Hanabusa, seconded by Senator English and carried, Conf. Com. Rep. No. 81-06 was adopted and H.B. No. 2265, H.D. 2, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO CORRECTIONS,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, 5 (Hemmings, Hogue, Slom, Trimble, Whalen). Excused, 1 (Taniguchi).

Conf. Com. Rep. No. 97-06 (H.B. No. 2691, S.D. 2, C.D. 1):



On motion by Senator Kanno, seconded by Senator Hanabusa and carried, Conf. Com. Rep. No. 97-06 was adopted and H.B. No. 2691, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PREVAILING WAGES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, 5 (Hemmings, Hogue, Slom, Trimble, Whalen). Excused, 1 (Taniguchi).

Conf. Com. Rep. No. 98-06 (H.B. No. 2412, H.D. 1, S.D. 1, C.D. 1):

Senator Tsutsui moved that Conf. Com. Rep. No. 98-06 be adopted and H.B. No. 2412, H.D. 1, S.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Slom.

Senator Slom rose in support of the measure and stated:

"Mr. President, I rise in support of this bill, but again with the question that I seem to ask every year and that is, every time we conform the Hawaii tax code with the internal revenue code we always seem to leave out the things that benefit individual taxpayers the most. To it a person and a personal exemption is worth about half as much in the State of Hawaii as it is with the federal income tax, and I wish, I just hope that we can become a whole person again and get our same personal exemption as we do with the feds. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 98-06 was adopted and H.B. No. 2412, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONFORMITY OF THE HAWAII INCOME TAX LAW TO THE INTERNAL REVENUE CODE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 100-06 (H.B. No. 2950, S.D. 2, C.D. 1):

Senator Kanno moved that Conf. Com. Rep. No. 100-06 be adopted and H.B. No. 2950, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Ihara.

Senator Hanabusa rose to speak in opposition as follows:

"Mr. President, there are times when one feels like a broken record and this is exactly one of those times. This bill I've spoken against whether it's the Senate version, the House version, and now the CD version, and it's the one that establishes VEBA for everyone else.

"Mr. President, there are times when I just don't understand what we are doing. We have looked at the VEBA issue. We created the EUTF in the past and the EUTF is working. Anyone in Finance will tell you or Ways and Means will tell you that EUTF is working. It's working so much that the retirees are coming before us and asking that they not – NOT – be taken out of the EUTF and put into the individual VEBA plans. It's because they know that that's the protection that's afforded to them. They are not given representation in terms of collective bargaining because Chapter 89 has not been amended to say that a labor organization has the continuing obligation to ensure that they no longer have to pay for those premiums like they do now. They're not part of it, and yet we have this bill.

"HSTA did a good job last year. They came in and they negotiated. They had conditions set forth and they had a three-year pilot – a three-year pilot where they were going to do and

show us why it works. It's my understanding that HSTA is moving ahead and they're trying to do different things like become self-insured, a unique idea that we of course believed the EUTF should be as well. But they have a select group. They have a group of people who everyone wants because of their characteristics. The EUTF has everyone else.

"Mr. President, when we look at this and we look at giving another series . . . and we don't even know who wants this VEBA. No one has come to see me to say we want VEBA. No one has said that. We are just passing this bill because someone feels that we should just let them do it if they want to do it. This is too serious a matter. It has fiscal implications. It has implications for those retirees that we should not just simply say, well, if you want to do it, be our guest. What happens to the whole structure of risk sharing? What happens to the legislation that we did to do major reform so we could keep those costs in place so that those retirees don't have to pay premiums? Those are the promises we made. We should be able to at least think very carefully before we go back on our word – and that's what we're doing.

"The fact that those retirees have come to us and said don't let us go out of the EUTF should be statement enough, because they know. They look at their colleagues in the private sector. They know what's going to happen, because I tell you what, in the national Labor Relations Act, you do not have an obligation to bargain for them anymore once they retire. Neither do you have an obligation to technically ensure that they are represented under VEBA. That is why they don't want to be there.

"We are looking at the future. We're looking at the fact that Marion Higa said in her report that you've got to do something about the health fund or you are going to bankrupt this state or everyone's going to pay huge premiums. We did something very good when we created the EUTF.

"I understand that my colleagues wanted to see and give the HSTA an opportunity to go out on their own. So they did. And I also understand that many felt that the only fair way to do it was to ensure that they took their retirees. That was a fair statement, because to keep the retirees in the state and only keep them in the state is not fair. That's exactly what we had before we created the EUTF.

"Mr. President, we have this bill again. It's in the final version. We're all to vote on it, and I ask you and my colleagues to vote 'no.' At least we should know who wants this – who wants it other than HSTA. HSTA has it. HSTA negotiated it. HSTA is there and the attorney general has worked with them and said okay, but we are going to be to come in and sue you and do everything. But who wants it now?

"We shouldn't pass bills for phantom people. They should come before us and they should make their intentions known. They should answer questions about how many numbers and what they intend to do with their retirees. We don't have that.

"Mr. President, for that reason, I know I sound like a broken record on this for the third time, but we just can't continue to pass this bill because somebody thinks it may or may not be a good idea. We have to be responsible. We've got to think about those retirees. The retirees are the ones who have worked for this state with the promise of benefits. And yes we know, the newspapers run huge columns about the benefits, but that's one of the reasons why we've been able to attract these employees. Let's keep our word to them. Don't do something to jeopardize their future benefits, especially when we don't know who it is. We don't know who it is. We don't know yet how much HGEA or UPW owes the state in terms of the old

health fund. We don't know that. We've got to find all that out before we start going and doing things and then somehow all that information is hidden and we never get it.

"Mr. President, for that reason, I ask that you and my colleagues vote 'no' on this measure. Thank you."

Senator Slom rose in opposition and stated:

"Mr. President, I, too, rise in opposition to this bill. Again, a broken record too.

"Let me support the previous speaker and let me emphasize, first of all, I think we do know who's supporting this measure because they're the very same people that the attorney general is seeking funds from now. They're the very same people that the legislative auditor was unable to get any information or any cooperation from years ago. HSTA gave cooperation. They didn't give all the information that the legislative auditor wanted, but they gave enough and they promised to cooperate, and they have. The other labor organizations have not.

"To hand them this blank check would be irresponsible of this Legislature. We know better. We should not do it. As the good speaker just said, we're just starting a three-year pilot program for HSTA and the whole idea is to see how that works. In the meantime, we do know that the EUTF is working, that they have met all of their goals; they have met all of their deadlines; they have listened to people, made changes, and they are protecting retirees. And guess what, retirees don't only come to Majority Legislators, they come to Minority Legislators and ask for protection and for fairness as well.

"By extending these VEBA trusts to organizations that have not met prior commitments is not going to protect the retirees and it certainly is not going to protect the fiscal health of this state. And that is one thing that I think that we should be very cognizant of.

"The best thing that Mr. Cayetano did in his last administration, his last years, was the civil service and collective bargaining reform. And it was very interesting how people supported him when he was Governor and then when we had a change of Governor, completely changed their position except for the last speaker.

"It is a position that is a correct one whether it comes from a Democratic Governor or a Republican Governor, and it is a bipartisan issue. But again, I would urge you, if you are thinking about the individuals involved, think if any retiree has come to you and begged you to allow VEBA trust for the very organizations that have thrown them by the wayside in the past and increased our costs.

"We should overwhelmingly defeat this bill, watch with interest what happens with the pilot program and then we have plenty of time to make changes in the future. There is no rush, or at least there should not be, to do so. And you should question those that tell you that in fact you must act now. Thank you."

The motion was put by the Chair and failed to carry, Conf. Com. Rep. No. 100-06 failed to be adopted and H.B. No. 2950, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO VOLUNTARY EMPLOYEES' BENEFICIARY ASSOCIATION TRUSTS," having been read throughout, failed to pass Final Reading on the following showing of Ayes and Noes:

Ayes, 11. Noes, 13 (English, Espero, Hanabusa, Hee, Hemmings, Hogue, Kim, Kokubun, Nishihara, Sakamoto, Slom, Trimble, Whalen). Excused, 1 (Taniguchi).

At 4:55 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 4:56 o'clock p.m.

Conf. Com. Rep. No. 101-06 (S.B. No. 2948, S.D. 1, H.D. 2, C.D. 1):

Senator Hanabusa moved that Conf. Com. Rep. No. 101-06 be adopted and S.B. No. 2948, S.D. 1, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Whalen.

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

"Mr. President, I rise in opposition to S.B. No. 2948.

"Not all land is alike. Not all ceded land is alike. I would assert that perhaps in some cases 60 percent, 100 percent may be appropriate, but I would argue that in the case of land that is in our harbors where the burden of paying for harbors is borne by all consumers in Hawaii that when 20 percent of that harbor land is taken away, that that represents a tax on everyone in Hawaii. For that reason, I will be opposing this measure. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 101-06 was adopted and S.B. No. 2948, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC LAND TRUST," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 2 (Slom, Trimble). Excused, 1 (Taniguchi).

Conf. Com. Rep. No. 102-06 (S.B. No. 3119, S.D. 2, H.D. 1, C.D. 1):

Senator Hanabusa moved that Conf. Com. Rep. No. 102-06 be adopted and S.B. No. 3119, S.D. 2, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Hee.

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

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

"I'm not rising in opposition because of Micah Kane. I think he's done a fantastic job with the Hawaii Homes Commission. I wish him the best, but we do not make law to accommodate the best that we have. We make law to protect ourselves in case we have something less than the best that is managing our money and our resources.

"For that reason, I oppose this measure. Thank you."

Senator Hee rose in support of measure and stated:

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

"I don't even have a clue what the previous speaker was talking about. I tried to listen carefully on the previous bill that had to do with the Office of Hawaiian Affairs and this bill has to do with Hawaiian Home Lands.

“This bill was supported by the Department of Hawaiian Home Lands. It was supported by the administration. It was supported by the Budget and Finance Department. It gives the Department of Hawaiian Home Lands the opportunity to invest their funds like the Office of Hawaiian Affairs. There’s no question that the fiscal record would demonstrate that the Office of Hawaiian Affairs has done remarkably well. While the Department of Hawaiian Home Lands has been stuck with the state treasury at 4 percent, the Office of Hawaiian Affairs’ managed monies had an investment return of 16 percent. It gives the opportunity of the Hawaiian Home Lands Commission to do the same as fiduciaries.

“It probably, at the end of the day, will relieve the general fund because of their ability to raise more funds being professionally managed as fiduciaries would require of firms such as Goldman Sachs and others. For that reason, I ask my colleagues to support this measure. Thank you.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 102-06 was adopted and S.B. No. 3119, S.D. 2, H.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO HAWAIIAN HOME LANDS,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 1 (Trimble). Excused, 2 (Taniguchi, Whalen).

Conf. Com. Rep. No. 118-06 (S.B. No. 3077, S.D. 2, H.D. 2, C.D. 1):

Senator Kokubun moved that Conf. Com. Rep. No. 118-06 be adopted and S.B. No. 3077, S.D. 2, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator English.

Senator Slom rose in opposition to the measure and stated:

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

“The problem I have with this bill is that after it creates the legacy land conservation commission to assist DLNR it says that there shall be consultation with the Senate President and the Speaker of the House. First of all, it’s vague as to what consultation is and what it means and what method it might take. Secondly, if we in the Legislature are still responsible at all for what happens with the disposition of lands and the definition thereof, then I think there should be a mechanism so that in fact it comes before the full Legislature. And because it’s vague and because it doesn’t discuss that, I’ll be voting ‘no.’ Thank you.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 118-06 was adopted and S.B. No. 3077, S.D. 2, H.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO CONSERVATION,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 1 (Slom). Excused, 2 (Taniguchi, Whalen).

Conf. Com. Rep. No. 127-06 (S.B. No. 2720, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Sakamoto, seconded by Senator Inouye and carried, Conf. Com. Rep. No. 127-06 was adopted and S.B. No. 2720, S.D. 2, H.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO EDUCATION,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 131-06 (S.B. No. 2957, S.D. 2, H.D. 2, C.D. 1):

Senator English moved that Conf. Com. Rep. No. 131-06 be adopted and S.B. No. 2957, S.D. 2, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Menor.

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

Senator English rose and said:

“Mr. President, I’d like to insert comments into the record.”

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

“This measure is an important step toward energy self-sufficiency in the state of Hawaii. Hawai’i depends on petroleum for about ninety per cent of its energy needs – more than any other state in the nation. We are therefore vulnerable to oil embargoes, supply disruptions, and other factors beyond the control of the State. Hawai’i has among the most abundant renewable energy resources in the world, in the form of solar, geothermal, wind, biomass, and ocean energy assets. This measure would promote their wider use across-the-board, and move us toward a secure energy future.

“Its principal components are:

- increasing renewable energy tax credits;
- establishing a pay as you save program for solar water heating systems;
- establishing a bio-diesel preference in the state procurement law;
- establishing a Hawaii renewable hydrogen program and hydrogen investment capital special fund; and
- establishing state support for an alternate fuels standard.

“Mr. President, this is an important step forward for our state, and I urge my colleagues to support this measure.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 131-06 was adopted and S.B. No. 2957, S.D. 2, H.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO ENERGY,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 132-06 (S.B. No. 3181, S.D. 2, H.D. 2, C.D. 1):

Senator English moved that Conf. Com. Rep. No. 132-06 be adopted and S.B. No. 3181, S.D. 2, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Menor.

Senator Slom rose to speak in opposition as follows:

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

“As we’ve talked about before, the bottle tax changed the preference of consumers so much so that they in greater numbers went to larger sized containers but the Legislature now to entrap and ensnare them is going to increase the container size that is subject to the tax to 68 ounces. Now, I don’t have

any qualms about the fact that the manufacturers will start coming out with 68.2 ounce containers to get around this and then next year we'll be back to go up to 70 ounces.

"My point, though, is this – this again is not a recycling bill. The state is sitting on more than \$24 million now in taxes that were not rebated, so it's a good money-making message for the state. And despite all of the glowing estimates that come out from the Department of Health, there is still almost as much of the containers in the landfill as before. The only difference is, when people go and they buy their beverages, whether it be water or juice or soda, they find that they're paying a heftier price for this and this will increase the tax burden to consumers even more. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 132-06 was adopted and S.B. No. 3181, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SOLID WASTE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 138-06 (S.B. No. 2570, S.D. 2, H.D. 2, C.D. 1):

Senator Fukunaga moved that Conf. Com. Rep. No. 138-06 be adopted and S.B. No. 2570, S.D. 2, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

Senator Trimble rose in opposition and stated:

"Mr. President, I rise in opposition to this tax credit.

"Colleagues, when I originally talked about opposing media tax credits I said that for tax credits to be effective you have to come back every once and awhile and raise them. That is exactly what we're doing today, and if we raise it again, the industry gets use to it and in a few years we'll be coming back and there will be folks among us that will be asking you to increase it above 15 percent on Oahu and above 20 percent on the neighbor islands.

"We will never get to the point where we have a self-sustaining industry by giving them tax credits and increasing those tax credits. For that reason, I oppose this measure. Thank you."

Senator Fukunaga rose in support and said:

"Mr. President, I have remarks in support of this measure that I'd like to request be inserted in the Journal. In response to the prior speaker, I would like to point out that this tax credit is for a 10-year period. With respect to the previous speaker's comments on reviewing the extent of the credit, its performance can be reviewed at that time. For these reasons, I urge my colleagues to vote 'yes.'"

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

"Mr. President, I rise to speak in support of S.B. No. 2570, C.D. 1, Relating to Digital Media.

"The purpose of this measure is to amend the motion picture and film production income tax credit under section 235-17, Hawaii Revised Statutes, by increasing the motion picture and film production refundable tax credit from a very modest 4 percent to 15 percent on Oahu and 20 percent on the neighbor

islands; and revising the definitions and the eligibility criteria and parameters for qualifying for the tax credit.

"This bill has been a VERY long time in coming and I could thank literally hundreds of people who have finally made this bill a reality. Briefly, it would not be possible without the strong support of the industry – the film and digital media companies, the unions, the hundreds of professionals working in all aspects of the industry – state and county government – particularly the Department of Business, Economic Development and Tourism and the county film bureaus – and my colleagues in the House. Thank you all for not giving up in the face of many years of disappointment.

"Since 1992, the film industry has generated approximately \$160,000,000 in tax revenues for the State – a significant economic contribution. But every year, Hawaii has faced greater and greater competition for those dollars as other state and local governments sought to attract movie productions through a variety of very competitive incentives. Those jurisdictions have experienced dramatic increases in in-state spending and significant growth in workforce and infrastructure development – to Hawaii's detriment. Now we can once again compete with more than a beautiful location and amazingly talented people.

"We can offer real dollar incentives – industry projections show potential revenue increases of \$9.9 million by FY07. Conferees heard in our last conference meeting on this bill of several specific projects that have been waiting to see what action the Legislature took on tax credits before making decisions on filming in Hawaii. I am confident that as a result of this action, we will be celebrating more 'Lost' kinds of successes in our future."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 138-06 was adopted and S.B. No. 2570, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DIGITAL MEDIA," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 140-06 (S.B. No. 2997, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Inouye, seconded by Senator Fukunaga and carried, Conf. Com. Rep. No. 140-06 was adopted and S.B. No. 2997, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Trimble).

Conf. Com. Rep. No. 144-06 (S.B. No. 2036, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Fukunaga, seconded by Senator Espero and carried, Conf. Com. Rep. No. 144-06 was adopted and S.B. No. 2036, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR AN INTERNATIONAL BUSINESS AND TECHNOLOGY INCUBATOR," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 149-06 (S.B. No. 2348, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Baker, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 149-06 was adopted and S.B. No. 2348, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION TO THE DEPARTMENT OF HEALTH FOR PANDEMIC INFLUENZA PREPAREDNESS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 153-06 (H.B. No. 1800, H.D. 1, S.D. 1, C.D. 1):

Senator Menor moved that Conf. Com. Rep. No. 153-06 be adopted and H.B. No. 1800, H.D. 1, S.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

Senator Trimble rose in opposition to the measure and said:

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

"What this does is require on the sale of a property, if the person selling the property is a foreigner, that there be retained 8½ percent of that sales price. And the argument given was, well our capital gains tax is above the 5 percent level we currently have. The problem is that capital gain is based on gain, not on the total value of the sale.

"The second thing is that proponents of this bill said it's going to discourage flipping, the practice of holding something for a short period of time and selling it, as if the only one involved in this activity is somehow foreigners and not people in the State of Hawaii. If the issue is flipping, then we should deal with that issue, but we shouldn't constantly look at our problems and try and blame those that are someplace else.

"I urge you to vote 'no' on this measure. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 153-06 was adopted and H.B. No. 1800, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SALE OF REAL PROPERTY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 4 (Hemmings, Hogue, Slom, Trimble). Excused, 1 (Hooser).

Conf. Com. Rep. No. 154-06 (H.B. No. 1923, H.D. 1, S.D. 2, C.D. 1):

Senator Kim moved that Conf. Com. Rep. No. 154-06 be adopted and H.B. No. 1923, H.D. 1, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Tsutsui.

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

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

"Again, I'm forced to vote against the bill because of the one provision in there that we insist on keep putting in there and that's to allow the tourism authority to hire their own outside attorneys when we have demonstrated they don't need to do so and we have plenty of attorneys on staff in the Attorney General's Office. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 154-06 was adopted and H.B. No. 1923, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII TOURISM AUTHORITY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 3 (Hogue, Slom, Trimble). Excused, 1 (Hooser).

Conf. Com. Rep. No. 156-06 (H.B. No. 2239, H.D. 1, S.D. 2, C.D. 1):

Senator Menor moved that Conf. Com. Rep. No. 156-06 be adopted and H.B. No. 2239, H.D. 1, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

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

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

"We've seen a lot of publicity about this issue in the news media of late. On one hand we're talking about providing housing for the homeless. On the other hand here we're trying to get the state involved in the Kukui Gardens development where the rents are frozen for another five years, but for some people that's not good enough. They want to be subsidized in perpetuity. We don't have any cost estimates of what this would mean. We also have the specter of the state either going into yet another failed housing project – failed from the standpoint of the state operating it I should say – or for the state using eminent domain to condemn the property. In other words, there's not one alternative here that's a good one other than the fact that we know now that we have at least five years, even with the new owner of the development, for the rents to remain static where they are.

"I think people in the private sector would certainly like to have five years of guaranteed rents right now. And as I say, as we're shuffling homeless people from place to place we have one specific example here where we're trying to get the state involved where really they should not be involved. Thank you."

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

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

"Mr. President, I believe the House and Senate Conferees took a significant step to protect Hawaii's affordable housing stock in passing this bill out. The bill we agreed on directs the appropriate state housing agency to enter into negotiations with the owners of the Kukui Gardens housing project to ensure that the project remains an affordable rental project for many years. The legislation also gives the agency the authority to enter into condemnation proceedings if negotiations with the owners of Kukui Gardens fail.

"In addition, the legislation keeps alive the possibility of a public/private partnership under which the state could enter into a joint venture with a private entity to purchase the project or the state could purchase the project outright and lease it to a private or nonprofit entity to operate and maintain it.

"I personally met with the managing partners of Carmel Partners, the real estate investment company that will buy the Kukui Gardens property, and while I sincerely appreciated their openness in maintaining the project as affordable housing, I

believe this affordable housing project represents and incredibly scarce resource and we must have more than general assurances to guarantee it remains within our affordable housing stock for the foreseeable future.

"I'd like to point out that the Joint Legislative Affordable Housing and Homeless Task Force, which I co-chaired, determined that the state cannot address the affordable housing issue without ensuring that the existing affordable housing stock will remain available and affordable. It really makes no sense for the state to talk about building additional affordable units while allowing current affordable units to be taken away. We would never achieve a net gain in affordable housing if that were the case.

"Moreover, housing industry officials, developers, and other stakeholders with whom the task force met emphasize that the state needs to play a more proactive role in providing more public financing for affordable housing in Hawaii. This measure would be consistent, Mr. President, with that objective.

"It is important to move this bill to the Governor now because it will give our state housing agency a better negotiating position and more leverage to strike the best possible deal with the owners of Kukui Gardens. We also need to pass this measure because it gives our state housing agency and the administration specific policy direction. While they have offered general support for the concept for maintaining affordability, they have offered no specifics and have not proposed any concrete solutions to insure we do not allow any of our affordable housing stock to slip away.

"This bill will accomplish all of these things and for these reasons, I respectfully ask my colleagues to vote in favor of this measure. Thank you."

Senator Trimble rose in opposition to the measure and stated:

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

"I grew up in a period of time when 80 percent of the affordable housing in Boston was owned by charitable organizations and it was slum housing. The reason why the federal government came up with programs like the one that built Kukui Gardens was that affordable housing needed to be new, not slum housing.

"What we should be doing is increasing the supply of affordable housing. Passing this measure will not increase the supply of affordable housing but may put the state in the position of having to spend more and more money on property that is old, that is deteriorating, that its expense is high. Our money would be better spent on increasing the supply of affordable housing with new projects.

"So consider these, my colleagues, we do not want to go back to what was there in the 50's when 80 percent of the slum housing in Boston was owned by charitable organizations and there was very little affordable housing that was new and clean. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 156-06 was adopted and H.B. No. 2239, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LAND ACQUISITION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 3 (Hemmings, Slom, Trimble).

At 5:14 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 5:16 o'clock p.m.

Conf. Com. Rep. No. 162-06 (H.B. No. 2500, H.D. 2, S.D. 2, C.D. 1):

Senator Hanabusa moved that Conf. Com. Rep. No. 162-06 be adopted and H.B. No. 2500, H.D. 2, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

Senator Slom rose to speak in opposition as follows:

"Mr. President, I rise in opposition.

"While there are many good things and needed programs in this measure, continuing to pour money into the black hole of Kapolei and watching the expenses go up and no controls, no accountability renders this bill a financial disaster. I urge a 'no' vote."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 162-06 was adopted and H.B. No. 2500, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE JUDICIARY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 165-06 (H.B. No. 1889, H.D. 1, S.D. 2, C.D. 1):

Senator English moved that Conf. Com. Rep. No. 165-06 be adopted and H.B. No. 1889, H.D. 1, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

Senator Trimble rose in opposition and stated:

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

"This measure would create within DBEDT a section or a division that was, quote, 'international.' The truth of the matter is the time for this legislation passed 40 years ago. In this state there was the Hawaii International Services Agency doing exactly this thing. They were disbanded. A decade later there was a similar office in the Office of the Governor. That was disbanded. Ten years after that there was another office back in DBED doing the same thing. That was disbanded.

"The truth of the matter is every division in DBEDT is doing it internationally. To try and suggest that having a separate international office in DBEDT would be a step forward is sadly mistaken. Every division is doing business internationally. Creating this added bureaucracy is only creating additional bureaucracy. There is actually a step backwards. I urge a 'no' vote. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 165-06 was adopted and H.B. No. 1889, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE OFFICE OF INTERNATIONAL AFFAIRS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 2 (Slom, Trimble). Excused, 2 (Fukunaga, Hemmings).

Conf. Com. Rep. No. 166-06 (H.B. No. 1879, H.D. 1, S.D. 1, C.D. 1):

Senator Sakamoto moved that Conf. Com. Rep. No. 166-06 be adopted and H.B. No. 1879, H.D. 1, S.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

Senator Trimble rose in opposition to the measure and said:

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

“I’m speaking about this measure not because I’m against veterans; I’m speaking against this measure because this matter, this question of \$50,000 for an existing agency, for an existing function, properly deserves to be in the budget.

“Remember when I was talking about the state budget several hours ago, I said scattered through the ordinary calendar. We’re doing things one slot at a time. This is a \$50,000 . . . I think the veterans deserve more than \$50,000. This bill says they’re only worth \$50,000.

“Why are we having a separate piece of legislation that could very well cost more than \$50,000 to distribute \$50,000? It makes no sense. It is bad lawmaking. We should kill this measure. Thank you.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 166-06 was adopted and H.B. No. 1879, H.D. 1, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO VETERANS,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 1 (Trimble). Excused, 2 (Hemmings, Kim).

Conf. Com. Rep. No. 169-06 (H.B. No. 1918, H.D. 1, S.D. 2, C.D. 1):

Senator Hanabusa moved that Conf. Com. Rep. No. 169-06 be adopted and H.B. No. 1918, H.D. 1, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

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

The motion was put by the Chair and carried, Conf. Com. Rep. No. 169-06 was adopted and H.B. No. 1918, H.D. 1, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO COMMISSION ON SALARIES,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 3 (Hogue, Slom, Trimble). Excused, 1 (Hemmings).

Conf. Com. Rep. No. 173-06 (H.B. No. 2277, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Hanabusa, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 173-06 was adopted and H.B. No. 2277, H.D. 2, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT MAKING APPROPRIATIONS FOR CLAIMS AGAINST THE STATE, ITS OFFICERS, OR ITS EMPLOYEES,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 179-06 (S.B. No. 2961, S.D. 1, H.D. 1, C.D. 1):

Senator Baker moved that Conf. Com. Rep. No. 179-06 be adopted and S.B. No. 2961, S.D. 1, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

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

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

“You know, in the Committee the other day one would have thought that everybody in the state won the lottery. Everybody had a smile on their face, there were cheers, there was clapping, there was applause, and what was it all for? Because we raised the tax yet again on cigarette consumers. We raised it substantially, but the proponents really were not happy because they would have liked to raise it even faster and even more. And of course they will be back again next year to do that.

“This bill, as I continue to repeat time after time, really has nothing to do about health, because if we were really concerned about the plight of the smokers and their health, we would ban cigarettes. We wouldn’t allow them to use these awful things and we would put an end to it, but instead, no, we want them to pay more and more and more. Because what this has become, as always, is a question of money, not of health.

“We know that the cigarette tax, a cigarette tax anywhere, is among the most regressive of any excise taxes, that it afflicts the poor the most because poor people seem to smoke more than wealthier people, and yet we continue to tax and take great glee at this. I don’t think we should because the same people that are taxing the cigarette smokers will be coming after fat kids and fast meals and my Pepsi Cola next, because after all, Pepsi has benzene in it. So they don’t want me to stop drinking it, they’ll just want to double and triple and quadruple the tax. That’s the hypocrisy of this, Mr. President, it’s all about the money, not about the health.

“Now we’ve got more and more groups lining up to take some of this money and to use it for purposes other than originally intended in the tobacco settlement and so forth. And everybody is happy that we’re taxing these folks. What we’re really doing, though, is sending a message that again we are selecting a certain group of people. We are targeting them to take as much money as we can from them. If they die, too bad, we’ll tax them right up until the last breath they take. We’ll expand that tax. We want to be number one in the country; I think we’re only number two right now.

“We want to continue to take it more and more, but as I say, the philosophy is not just restricted to cigarettes, it is the idea that if there’s something that we don’t like or that we can make socially unacceptable, then we will go after it and we will tax it to its limit. As sure as I’m standing here straight and tall and happy as a lark at 5:25, I’m telling you that they’re going to be coming after your other legal activities that some people don’t like.

“So, I know that there is great excitement and great glee in taxing people further, but I will stand against increased taxes and I vote ‘no’ against this bill.”

Senator Baker rose in support of the measure and stated:

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

“Mr. President and colleagues, this is the second part of our incentive to quit smoking package that is before the Legislature this year.

"This measure will, yes, increase the tax on cigarettes and the revenue generated will go to some very important health related causes – funding the Cancer Research Center of Hawaii, providing for additional funding for emergency medical services, making sure that we have access to trauma care, and helping our community health centers.

"We discussed in a previous bill the health causes for smoking. We've discussed the link between smoking itself, secondhand smoke, and cancer. Cancer is certainly one of the diseases, but if you look at all of the literature, the detriments to our health from smoking are immense and it seems more and more diseases are linked to tobacco use each year. So it's important that we provide incentives for people to quit and also provide help for people to quit.

"For those of you who may not be aware, although if you've listened to the radio or TV recently you will know that a very effective program that's been launched in Hawaii is the tobacco quit line. It's a way of helping people to stop smoking and to stay strong in the face of a very addictive substance, nicotine.

"Because of the relationship between cancer and smoking, we felt it was most fitting that some of the increased revenues coming from the increase in the cigarette tax go for our cancer center. Cancer is a disease of aging. Hawaii's population is aging three times faster than the rest of the country and so we're going to have an even greater need for comprehensive cancer treatment, programs, research, clinical trials than we currently have. In fact we're anticipating a doubling in the number of new cancer cases each year in the State of Hawaii in less than 25 years. We need to be prepared to meet the needs of a growing number of cancer patients in Hawaii and they shouldn't have to go away for their treatment. We ought to have a comprehensive set of treatment options here. Available cancer treatments ought to be cutting edge. They ought to be available to everyone in the state whether they reside on Oahu or on the neighbor islands.

"To the good Senator from Hawaii Kai's point about why are we raising the taxes, what good does it do, I would just like to point to a number of studies that consistently show that raising cigarette cost in the form of taxes is one of the most effective ways to reduce smoking. That really is an objective of the Health Committee, the Conference Committee, and I believe the proponents of this measure is to try to help people quit so that their health can be improved because research has demonstrated that smoking harms nearly every organ of the body damaging overall health even if no specific disease develops.

"A study by researchers at the University of Illinois at Chicago and the University of Michigan Institute for Social Research that was released April 24, 2001, showed that cigarette tax increases are especially effective at preventing kids from becoming regular addicted smokers. The study found that a 10 percent increase in the price of cigarettes would decrease the number of children who start to smoke between 3 and 10 percent depending upon their stage of smoking. Price was found to have the greatest impact on preventing kids from becoming daily, and relatively heavy, daily smokers.

"The Centers for Disease Control when they list their best practice guidelines, one of the elements is to increase the cost of a pack of cigarettes because that is such a formidable deterrent in keeping young people from smoking and providing that additional incentive for adults to quit as well.

"By providing a dedicated funding source for our cancer research center, we will allow it to remain competitive and secure an additional National Cancer Institute designated to become a comprehensive cancer center. At this center we

would offer cutting edge cancer treatment here in Hawaii without the need to travel to the mainland for treatment. We'd be able to offer coordinated and comprehensive care that's currently lacking here at home. Currently, many cancer patients leave the islands for access to enroll in clinical trials with novel treatment regimes that are only available at large academic cancer centers on the mainland, but our new cancer center will be able to provide access to such trials and minimize the need for patients to leave the islands at a time when family support and care is most critical.

"The cancer center is just one of the beneficiaries of the increased revenue from the cigarette tax. By the sixth year, the trauma care special fund will be receiving approximately \$15 million per year; the emergency medical services special fund, \$12.5 million; community health clinics, \$12.5 million. The health issues that these special funds represent can be mitigated with more resources and ultimately freeing the general fund.

"The previous speaker noted that somehow he thought that using the tobacco taxes for these purposes was somehow going against the master settlement agreement. I would just note that currently the tobacco tax goes into the general fund and can be spent for anything. The master settlement agreement can be spent for anything as well and some states have spent their money on lowering property taxes, making sure that they had a debt reduction, a whole host of other things aside from trying to prevent smoking. While Hawaii hasn't put the designated amount into smoking cessation and prevention that CDC recommends, we've put in a significant portion from the master settlement agreement and clearly those efforts and the efforts in this measure will go a long way, I think, to deter smoking.

"Because there were some other issues clouded by one of the big tobacco lobbyists in our state, we asked the attorney general to opine on the notion that somehow passing this legislation would impede or somehow harm the master settlement agreement and the dollars that we receive from it. So Mr. President, I'd like to have that memo from deputy attorney general Earl R. Hoke, Jr. who has been the one on the AG's staff to handle all of the master settlement agreements, I'd like to have that attached to the Journal for future reference. I also have prepared a chart that talks about how the monies will be distributed. I passed this out at Caucus and gave copies to our good friend across the way, the Minority Leader, so that it would be clear for everyone to see just exactly where the dollars were going.

"Mr. President and colleagues, this I think is a very important measure for us. It goes hand in hand with the secondhand smoke ban. It goes hand in hand with trying to address some of the very critical health needs in our state, and it will provide real incentives for people to never take up the habit and also for them to quit. In places like Montana, Washington State and others that have passed significant increases recently, the efforts not only in terms of admissions to emergency rooms with heart attacks, but also with the number of people using the quit line and actually giving up smoking has been very beneficial.

"And yes, Mr. President, I would love it if we were to find that we didn't generate the revenue that we anticipate because people had quit smoking. Thank you very much."

The Chair having so ordered, the memo from the deputy attorney general is identified as ATTACHMENT "A" to the Journal of this day.

Senator Hogue rose to speak against the measure as follows:



"Mr. President, in response to the last speaker, I voted in favor of the secondhand smoke bill but I'm going to vote 'no' on this one, and the reason why, colleagues, is because I voted against every single tax increase in the time that I've been here in the State Senate and I really strongly believe that taxation should be fair and across the board and not used as a punishment of certain vices.

"I remember a few years ago we had a proposed increase in the tax for liquor. I believe that measure went down. I could be wrong on that, but I remember there were a number of people on this particular Floor that stood up against that. This is just like that. I don't like smoking. I can't stand smoking, but I hate the fact that we are taxed so much and we should not be using our tax system this way in which we punish a segment of our society.

"Thank you very much, Mr. President."

Senator Trimble rose in opposition to the measure and stated:

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

"The argument against this measure that has not yet been given today is that when you make a tax too high, some people will see opportunity to make money, make money illegally. And yes, you might notice that the tax revenue will go down. And perhaps some of it will be due to less smoking, but we will be creating economic opportunity to those that are most entrepreneurial in our society that is going to go out and get bootleg cigarettes, black market cigarettes, and we should not be raising the tax so high that we create a system that by its very nature tries to corrupt our law enforcement officials. We saw it happen across the United States during prohibition. The same thing will happen if you raise the tax on any commodity too much.

"The second thing is most people out there don't want the State Legislature to be their mommy, and that's what we're doing. We're saying that through social engineering we're going to raise your tax to modify your behavior. You're not going to change their behavior and you're going to get more and more upset with those that seek to do so, and we as the Legislature lose credibility. Vote 'no.'"

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

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

"We've heard some wonderful reasons from the Chairman of the Health Committee and the empirical evidence on why to vote in favor of this bill. I would say it is empirical. It is experience and experience is the oracle of truth, and the fact is that increased taxes have deterred young people from taking up smoking. The facts are that this is one of the major killers in the United States of America. The facts are that there is nothing, absolutely nothing, redeeming about cigarette smoking. Yes, I can eat a fatty hamburger; one is not going to hurt me. If I eat too many, maybe it will. But smoking one cigarette is bad no matter what the circumstance is. So all of the comparisons and all of the rationales given out on this just fall short. Smoking is bad.

"We heard about punishing smokers. Actually we're rewarding smokers. We're rewarding them with trying to provide them the assistance they may need to deter them from smoking that extra cigarette that may be the difference between life and death.

"I'd like to share with you a personal experience. It happened to me a little over 20 years ago. I was a young guy with some old friends. We rode the waves together and this one chap was 68 years old. I went and saw him at his house the day before he died. He had lung cancer. He was 68 chronologically, but in many ways he was 28 or 38 and he wanted to live his life. He didn't want to die. He was crying, as I was. He said 'I've spent my whole life trying to stop smoking and it's finally killing me.' He's dead. I took his ashes out about a week later to a surf called Kalehuawehi and he's there now.

"This is about saving lives. This isn't about taxes. This is about helping people cure their disease, this terrible addiction they have. The money is something and I'm very proud to have voted against every tax increase since I've been here in the Senate, but I'm very proud today to stand up and be voting in favor of this tax increase because it will make a heck of a difference in people's lives. And maybe, just maybe if my friend had had the assistance he needed when he was young boy not to smoke, he'd be here today as a very old man watching these proceedings.

"I urge my colleagues to support this legislation. Its time has come. Thank you, Mr. President."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 179-06 was adopted and S.B. No. 2961, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 5 (Hogue, Ige, Slom, Trimble, Whalen).

Conf. Com. Rep. No. 181-06 (S.B. No. 2150, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Espero, seconded by Senator Kokubun and carried, Conf. Com. Rep. No. 181-06 was adopted and S.B. No. 2150, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO BOATING," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 184-06 (S.B. No. 965, S.D. 2, H.D. 1, C.D. 1):

Senator Hanabusa moved that Conf. Com. Rep. No. 184-06 be adopted and S.B. No. 965, S.D. 2, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

Senator Hooser rose to speak in opposition as follows:

"Mr. President, I rise in opposition to S.B. No. 965.

"We in America have a history marred by the excessive and often illegal and unwarranted use of electronic surveillance. From the McCarthy era, to the civil rights movement and Dr. Martin Luther King Jr., to Vietnam, to post-9/11 America, our citizens it seems have just cause for concern.

"Colleagues, this is a slippery slope and it is my belief that we must do more in Hawaii, not less, than the federal government to protect our personal liberty, our privacy, and our democracy. For these reasons, I'll be voting in opposition to this bill.

"Thank you, Mr. President."

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

The motion was put by the Chair and carried, Conf. Com. Rep. No. 184-06 was adopted and S.B. No. 965, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTRONIC SURVEILLANCE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 2 (Hee, Hooser). Excused, 1 (Menor).

Conf. Com. Rep. No. 186-06 (S.B. No. 819, S.D. 1, H.D. 1, C.D. 1):

Senator Fukunaga moved that Conf. Com. Rep. No. 186-06 be adopted and S.B. No. 819, S.D. 1, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

Senator Trimble rose to speak against the measure and said:

"Mr. President, I rise in opposition to S.B. No. 819.

"I oppose this measure because I'm opposed to state agencies being enabled to keep in their own special fund the fines and penalties that they levy on others. Part of my opposition historically to other measures like the van cam is that it changes the focus of the organization. It changes the focus to one of fining and trying to maximize those fines so that their program has a steady source of income. And to the extent that this detracts from their other responsibilities, I think it is poor public policy. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 186-06 was adopted and S.B. No. 819, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII HISTORIC PRESERVATION SPECIAL FUND," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Trimble). Excused, 1 (Menor).

At 5:41 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 5:53 o'clock p.m.

Conf. Com. Rep. No. 187-06 (S.B. No. 2133, S.D. 2, H.D. 2, C.D. 1):

By unanimous consent, action on Conf. Com. Rep. No. 187-06 and S.B. No. 2133, S.D. 2, H.D. 2, C.D. 1, was deferred to the end of the calendar.

Conf. Com. Rep. No. 189-06 (S.B. No. 2143, S.D. 2, H.D. 1, C.D. 1):

Senator Menor moved that Conf. Com. Rep. No. 189-06 be adopted and S.B. No. 2143, S.D. 2, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

Senator Trimble rose to speak in opposition as follows:

"Mr. President, I again, for the seventh time, rise in opposition to this measure. Maybe I can get it right this time.

"Colleagues, this is not about money laundering. This is about consumer choice and an attempt by some of the larger

players, some of the players that are not now competitive, to eliminate their competition. Currently, if you want to transmit money home, you can go to Bank of Hawaii. You can pay for . . . the last time I checked at Bank of Hawaii it cost me \$65.00 to send a wire transfer. You can go to Western Union. I can't remember what they charge. Unfortunately, I didn't have the time or the energy to invest in looking around for alternatives that are cheaper, but when this bill came up and it came up again, Western Union and one time I think it was Philippine National Bank came down and testified that they needed to protect people. No, what they wanted was the people transmitting the money successfully, the people that wanted to get their money home, to not have that inexpensive alternative. And quite frankly, I didn't see anybody at the public hearings – any of the people that were actually sending money back home – wanting to be saved.

"You would expect that if this were indeed a consumer protection bill, that there would be injured parties coming forward saying please protect us. But the only people that came forward were industry people that wanted to eliminate their cheaper competition. Why did they come back this year? Why does it appear that this year it will succeed? Because those people hired a lobbyist and are actually using a paid lobbyist to lobby us so we'll pass it. I think it would be a wrong signal, a bad signal, if in four years we reject the bill three times to pass it on the fourth year simply because the only difference they made was to have a paid lobbyist.

"I urge your 'no' vote. You're not protecting people; you're just forcing them to use a more expensive alternative. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 189-06 was adopted and S.B. No. 2143, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MONEY TRANSMITTERS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 1 (Trimble). Excused, 3 (Hooser, Ige, Tsutsui).

Conf. Com. Rep. No. 193-06 (S.B. No. 3090, S.D. 2, H.D. 1, C.D. 1):

Senator Kanno moved that Conf. Com. Rep. No. 193-06 be adopted and S.B. No. 3090, S.D. 2, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

Senator Slom rose in opposition and stated:

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

"It's really interesting because as the testimony indicated, this bill would require the Department of Labor to establish standardized forms for medical service providers and so forth. The Department of Labor is already doing that and passage of this bill will not make them do anything that they've not already done, are doing, plan to do, and it won't reduce the cost to employers or employees, and it won't speed up the process. What would do that is improvements to their computer system. They requested funding to do that and the funding was denied.

"So, this bill is superfluous. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 193-06 was adopted and S.B. No. 3090, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO STANDARDIZED FORMS FOR WORKERS'

COMPENSATION HEALTH CARE PROVIDERS,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 195-06 (S.B. No. 2214, S.D. 2, H.D. 3, C.D. 1):

Senator Inouye moved that Conf. Com. Rep. No. 195-06 be adopted and S.B. No. 2214, S.D. 2, H.D. 3, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Sakamoto.

Senator Slom rose in opposition to the measure and said:

“Mr. President, I rise in opposition this bill only because it creates yet another new special fund.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 195-06 was adopted and S.B. No. 2214, S.D. 2, H.D. 3, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO DISASTER PREPAREDNESS,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 1 (Slom). Excused, 2 (Hooser, Tsutsui).

Conf. Com. Rep. No. 197-06 (S.B. No. 3120, S.D. 2, H.D. 1, C.D. 1):

Senator Hee moved that Conf. Com. Rep. No. 197-06 be adopted and S.B. No. 3120, S.D. 2, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

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

“Mr. President, again opposition because of a new created special fund. Thank you.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 197-06 was adopted and S.B. No. 3120, S.D. 2, H.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 1 (Slom). Excused, 2 (Hooser, Tsutsui).

Conf. Com. Rep. No. 198-06 (S.B. No. 3035, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Kanno, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 198-06 was adopted and S.B. No. 3035, S.D. 1, H.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO CONTINUED TEMPORARY TOTAL DISABILITY BENEFITS TO INJURED EMPLOYEES,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 3 (Hemmings, Slom, Trimble). Excused, 2 (Hooser, Tsutsui).

Conf. Com. Rep. No. 201-06 (H.B. No. 2778, H.D. 2, S.D. 2, C.D. 1):

Senator Inouye moved that Conf. Com. Rep. No. 201-06 be adopted and H.B. No. 2778, H.D. 2, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Hanabusa.

Senator Slom rose to speak against the measure and said:

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

“As we’ve seen through the hearings, what this bill will do is create additional causes of action, more litigation for people that do not want to take the existing methods and agencies for language accessibility. I guess this brings the point home of what we see on the mainland where now we have people changing the National Anthem to their own language. This is a nation that should be united by language. We have an international language for businesses for communication and yet we continue to try and make exceptions, and more than make exceptions, we create causes of litigation.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 201-06 was adopted and H.B. No. 2778, H.D. 2, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO LANGUAGE ACCESS,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, 5 (Hemmings, Kim, Slom, Trimble, Whalen). Excused, 1 (Tsutsui).

Conf. Com. Rep. No. 205-06 (H.B. No. 2692, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Kanno, seconded by Senator Espero and carried, Conf. Com. Rep. No. 205-06 was adopted and H.B. No. 2692, H.D. 1, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO PUBLIC WORKS,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 4 (Hemmings, Hogue, Slom, Whalen). Excused, 1 (Tsutsui).

Conf. Com. Rep. No. 207-06 (H.B. No. 3116, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Chun Oakland, seconded by Senator Baker and carried, Conf. Com. Rep. No. 207-06 was adopted and H.B. No. 3116, H.D. 2, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE HAWAII CHILDREN’S HEALTH CARE PROGRAM,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Slom).

At 6:01 o’clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 6:02 o’clock p.m.

Conf. Com. Rep. No. 208-06 (H.B. No. 3056, H.D. 2, S.D. 2, C.D. 1):

By unanimous consent, action on Conf. Com. Rep. No. 208-06 and H.B. No. 3056, H.D. 2, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO KAWAI NUI MARSH,” was deferred until Thursday, May 4, 2006.

Conf. Com. Rep. No. 209-06 (H.B. No. 2109, H.D. 1, S.D. 2, C.D. 1):

Senator Baker moved that Conf. Com. Rep. No. 209-06 be adopted and H.B. No. 2109, H.D. 1, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

Senator Trimble rose in opposition and stated:

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

“Here we have another budget item we’re creating. We have a bill to create one position, spend \$100,000. I think it should have been in the budget if it was so required. Thank you.”

Senator Baker rose in support of the measure and said:

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

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

“Mr. President, I rise in support of H.B. No. 2109.

“The purpose of this bill is to establish a full- time position to coordinate and develop prevention and intervention strategies for Fetal Alcohol Spectrum Disorder (FASD).

“The creation of a coordinator position was the primary recommendation from the FASD Task Force establishes by H.C.R. No. 141 in the 2004 Legislative Session. A state coordinator would organize all FASD activities and ensure that a comprehensive state strategic plan to address FASD is developed and implemented. It would provide a consistent point of reference for health care and child welfare professionals and families in search of additional information.

“Children affected by FASD have life-long learning, behavioral and health problems caused by organic brain damage. This condition is fully preventable by eliminating alcohol use during pregnancy. Individuals with FASD usually require a range of specialized medical, social, educational, and legal services.

“As Healthy Mothers, Healthy Babies coalition pointed out in testimony to your Health Committee, there is no ‘safe amount’ of alcohol during pregnancy, although binge drinking is especially harmful to the fetus. FASD occurs in about 10 per 1000 live births, which is greater than either Downs Syndrome or autism. Unlike other developmental disabilities, FASD is 100 percent preventable. It is estimated that 175-185 infants are born each year in Hawaii affected by FASD, due to their mother drinking alcohol in pregnancy. An infant born with FASD has lifetime health and special education needs estimated to cost between \$735,000 to \$3.7 M per person. The estimated annual cost of services and care for persons affected by FASD in Hawaii is estimated at \$10.4 M. The modest expenditure in this measure to provide for the coordination of services, information and planning across agency lines is a very cost effective approach lessening the impact of FASD in our state.

“This bill fosters the birth of healthy babies in our state. I urge all my colleagues to vote in support of H.B. No. 2109, C.D. 1. Mahalo.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 209-06 was adopted and H.B. No. 2109, H.D. 1, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO HEALTH,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Trimble).

Conf. Com. Rep. No. 210-06 (H.B. No. 1867, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Kanno, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 210-06 was adopted and H.B. No. 1867, H.D. 1, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO WORKERS’ COMPENSATION,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 5 (Hemmings, Hogue, Slom, Trimble, Whalen).

Conf. Com. Rep. No. 213-06 (S.B. No. 3009, S.D. 2, H.D. 2, C.D. 1):

Senator Kanno moved that Conf. Com. Rep. No. 213-06 be adopted and S.B. No. 3009, S.D. 2, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

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

“Mr. President, I stand in opposition to S.B. No. 3009.

“I think it is wrong to confer by fiat civil service status on employees where the only requirement is that they meet minimum standards. It truly is going in the wrong direction to say that the threshold minimum qualifications really is the only thing needed for civil service in our civil service system. We should as a system be encouraging the hiring of the best and the brightest, and in some cases just minimum qualifications should not be enough. Thank you.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 213-06 was adopted and S.B. No. 3009, S.D. 2, H.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO CIVIL SERVICE EXEMPT EMPLOYEES,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 5 (Hemmings, Hogue, Slom, Trimble, Whalen).

Conf. Com. Rep. No. 214-06 (S.B. No. 3101, S.D. 2, H.D. 2, C.D. 1):

Senator Sakamoto moved that Conf. Com. Rep. No. 214-06 be adopted and S.B. No. 3101, S.D. 2, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Chun Oakland.

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

“Mr. President and colleagues, I rise to speak in support of S.B. No. 3101, S.D. 1, H.D. 2, C.D. 1.

“As a former educator and public school administrator who has taught and served in economically depressed areas in the DOE school system, I have had ample examples of students and their parents who have struggled with educational deprivation, which in large measure translates in later life to economic deprivation because of their lack of early educational support. I have seen firsthand the effects of students raised in homes that have struggled with parents whose educational opportunities and deficits have transferred their burdens onto their children. The benefits of early intervention and support to parents who have not had the opportunities to provide high quality education

to their young children is a burden they really do not wish or want for their children.

“As a teacher in the public school system, I’ve heard comments from teachers and others that these parents do not care about their children’s education. I have always disagreed and stated that they do care but lack the skills and access to effect positive outcomes for their keiki.

“I believe that this bill will do much to provide these missed opportunities to those communities where these parents reside. This can serve as a beacon of hope for breaking the cycle of poverty and poor academic progress. Because of these reasons, I ask that my colleagues support this bill. Thank you.”

Senator Sakamoto rose in support of the measure and said:

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

“Just to be more specific than my previous colleague who gave a bigger vision, I’d first like to thank the Human Services Chair for working hard last year and this year to continue to have a comprehensive system and our Ways and Means money people for putting some funds in.

“One of the things this does is build on the Junior K effort that was started last year to make that more meaningful and professional development work within the department. Another thing this bill does is expand the Families For Real, part of the vision our colleague from Waipahu talked about. It also expands Head Start in schools in our communities. Many children and families will benefit.

“Finally, the discussion about how early childhood should develop in our state, this bill continues the hard work of Representative Berg on the other side and our Senator from the Human Services Committee has done. This is a good bill that will really help our state. Thank you.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 214-06 was adopted and S.B. No. 3101, S.D. 2, H.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO EARLY CHILDHOOD EDUCATION,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 218-06 (S.B. No. 3195, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Sakamoto, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 218-06 was adopted and S.B. No. 3195, S.D. 2, H.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT MAKING AN APPROPRIATION FOR EDUCATION,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 219-06 (S.B. No. 3273, S.D. 2, H.D. 2, C.D. 1):

Senator Sakamoto moved that Conf. Com. Rep. No. 219-06 be adopted and S.B. No. 3273, S.D. 2, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Baker.

Senator Slom rose to speak in opposition as follows:

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

“This bill attempts to fool the public into thinking that we still have a zero tolerance policy at our schools. In fact we’ve discussed this before. We don’t have a zero tolerance policy. Zero tolerance meant that if there were drugs discovered on campus by students, they would be dismissed from school. Now what we’re seeing is they may not be dismissed, there’s not a zero tolerance policy. What they will get instead is an assessment, a substance abuse assessment. Then we have separate bills to pay for additional substance abuse assessors.

“So, we’re spending more money, creating more positions, but we’re not enforcing the promise that we made to parents and to students alike, particularly those students not drug addicted, and that is that we will stick by a zero tolerance policy. Either we have it or we don’t. This bill says we’re going to make it permanent except that we can then put them to social service assessments.

“We need a zero tolerance policy and we need to stick by it. This bill does not do that.”

Senator Baker rose in support of the measure and stated:

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

“Mr. President, the measure before us today is the product of many hours of conversation between the Senate and the House, the Department of Education, the Department of Health, and representatives of the private nonprofit community that offers treatment services in our schools. A taskforce was mandated by the Legislature in a measure passed last year. Its purpose was to review the zero tolerance policy – to hear from educators, to hear from people who work with the young people to see how we could make sure that there were consequences to having drugs, alcohol, other forbidden substances at schools but at the same time acknowledging that some of these individuals might actually have a substance abuse problem that needed to be treated. We also wanted to make sure that in every instance there were consequences but they also continued to have access to educational services.

“Mr. President, I think this is a very fair bill. It addresses the concerns that we heard from principals about wanting to have consequences to actions and the consequences to actions are in this bill. It also addressed the concerns of others who said we need to make sure that young people who may have a substance abuse problem get the appropriate assessment, treatment and follow-up, and that if they make a mistake in their life, that it’s not going to follow them forever and prevent them from being able to go on to college or to work or to a vocational trade.

“Mr. President, this is a very good bill. I enjoyed working with the Department of Education, the Department of Health representatives, and Representative Blake Oshiro, who was the designated House representative. I think we’ve come up with a bill that has been endorsed by all of the stakeholders in this measure and I ask my colleagues to vote in favor of it.”

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

The motion was put by the Chair and carried, Conf. Com. Rep. No. 219-06 was adopted and S.B. No. 3273, S.D. 2, H.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO SUBSTANCE ABUSE,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 2 (Slom, Trimble). Excused, 1 (Hee).

Conf. Com. Rep. No. 221-06 (S.B. No. 2190, S.D. 1, H.D. 2, C.D. 1):

Senator Kanno moved that Conf. Com. Rep. No. 221-06 be adopted and S.B. No. 2190, S.D. 1, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

Senator Slom rose in opposition to the measure and said:

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

“We’ve talked about this bill or a bill like it for a couple of years now. The idea was to give unemployment compensation relief to employers who are among the highest taxed in the nation. I’ve pointed out time after time after time that no employee pays one penny of unemployment compensation tax. It is levied on employers only and still we continue to see people in this Legislature refer to and write committee reports saying we need to balance anything we give to employers with employees. We don’t need to balance it unless we want to balance the costs and balance the tax. It is a tax against employers only.

“The only thing that they did in the conference draft was to extend for one more year, a total of two years, a reduction in unemployment compensation taxes. But in exchange for that, employers will pay permanently increased costs of unemployment compensation in terms of benefits, in terms of the number of weeks that are covered and so forth, and we still have the murky problem of willful and wanton conduct, making it much more difficult for an employer to dismiss an employee.

“Employers desperately wanted relief. They are not getting it from this Legislature. This is a fake reform bill, and if you add up the cost, the cost to employers will be far greater than the two years of reduction that they get in this bill.”

Senators Kim, Ihara, Ige and Nishihara requested their votes be cast “aye, with reservations,” and the Chair so ordered.

The motion was put by the Chair and carried, Conf. Com. Rep. No. 221-06 was adopted and S.B. No. 2190, S.D. 1, H.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO EMPLOYMENT SECURITY,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 5 (Hemmings, Hogue, Slom, Trimble, Whalen).

Conf. Com. Rep. No. 225-06 (H.B. No. 3142, H.D. 2, S.D. 2, C.D. 1):

Senator Baker moved that Conf. Com. Rep. No. 225-06 be adopted and H.B. No. 3142, H.D. 2, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Chun Oakland.

Senator Slom rose in opposition to the measure and stated:

“Mr. President, again I’m forced to oppose the bill because it creates another special fund. Thank you.”

Senator Baker rose in support of the measure as follows:

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

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

“Mr. President, I rise in support of H.B. No. 3142, Relating to Trauma Care, which establishes a trauma care special fund to be administered by the Department of Health. A portion of the revenue generated by an increase in the tax on cigarettes will be deposited into the special fund to ensure the availability of trauma care services in the State.

“Trauma centers throughout the United States are facing growing financial difficulties. Many of these problems are inherently related to the cost of having resources on-call every minute of the day to treat severely injured patients. Other factors have also contributed to the financial problems of trauma centers, including uncompensated care from uninsured/underinsured patients, rising medical malpractice insurance costs, inadequate reimbursement rates for hospitals and physicians from Medicaid and managed care organizations, and increasing costs for physicians to be on-call 24/7.

“According to the Trauma system study conducted by the American College of Surgeons in October 2005, injury in the State of Hawaii accounts for 50.7 percent of deaths for persons age 1 – 44, roughly one third more than that of cancer and heart disease combined. The rates of unintentional injury on the neighbor islands were more than double those for Honolulu County across most age categories based on a report of fatal injuries in the state from 1996 – 2000. This provides a strong argument for the development of an integrated system of trauma medical and transport services to meet the needs of residents and visitors alike.

“Dan Jessop, Executive Vice President and Chief Operating Officer of The Queen’s Medical Center (Queen’s) testified in support of H.B. No. 3142 noting that more than 1,500 trauma patients receive care at Queen’s annually and more than half of the trauma patients treated are under-insured or uninsured. Queen’s projected loss for trauma for this fiscal year is approximately \$6 million. But this is not just a Queen’s issue. Every emergency department in our state provides some level of trauma service. If we are to comprehensively address the issues outlined in the College of Surgeons report, we need to advance the state’s only trauma center at Queens to a level one center and stand up level three centers on the Big Island and Maui. The Legislature this session adopted a resolution calling upon the Department of Health to begin development of such a comprehensive, integrated system. DOH has already begun that task.

“Because of the growing financial problems of trauma centers, many states have passed legislation to establish dedicated funding sources for trauma centers or to provide temporary funding until long-term solutions are addressed. The Legislative Reference Bureau (LRB) recently issued a report entitled, ‘On-Call Crisis in Trauma Care: Government Responses,’ which included the finding that trauma centers across the nation have for many years been facing a crisis securing physician specialists for emergency call. The LRB concluded that ‘the rationale for public support of uncompensated trauma services is the same as for critical police and fire services; a trauma system is a necessary public service that ought to be publicly supported.’

“To that end, many other state legislatures have seen fit to support their trauma systems and have developed dedicated sources of funding to ensure continued trauma care. H.B. No. 3142 would be a step toward ensuring the availability of trauma care to the residents of Hawaii.

“I stand in support of this bill and ask for a yes vote from my colleagues. Mahalo.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 225-06 was adopted and H.B. No. 3142, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TRAUMA CARE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 226-06 (H.B. No. 2961, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Sakamoto, seconded by Senator Ige and carried, Conf. Com. Rep. No. 226-06 was adopted and H.B. No. 2961, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Trimble).

Conf. Com. Rep. No. 227-06 (H.B. No. 2558, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Kanno, seconded by Senator Chun Oakland and carried, Conf. Com. Rep. No. 227-06 was adopted and H.B. No. 2558, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO VOCATIONAL REHABILITATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 228-06 (H.B. No. 2947, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Kanno, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 228-06 was adopted and H.B. No. 2947, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT SECURITY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 3 (Hemmings, Slom, Trimble).

Conf. Com. Rep. No. 231-06 (H.B. No. 2175, H.D. 2, S.D. 2, C.D. 1):

Senator English moved that Conf. Com. Rep. No. 231-06 be adopted and H.B. No. 2175, H.D. 2, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Menor.

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

The motion was put by the Chair and carried, Conf. Com. Rep. No. 231-06 was adopted and H.B. No. 2175, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ENERGY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 232-06 (H.B. No. 266, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Kanno, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 232-06 was adopted and H.B. No. 266, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LABOR," having been

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

Ayes, 21. Noes, 4 (Hemmings, Slom, Trimble, Whalen).

Conf. Com. Rep. No. 233-06 (H.B. No. 2179, H.D. 2, S.D. 2, C.D. 1):

Senator Kokubun moved that Conf. Com. Rep. No. 233-06 be adopted and H.B. No. 2179, H.D. 2, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

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

"Mr. President, opposition – the sixth new special fund of the afternoon."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 233-06 was adopted and H.B. No. 2179, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 234-06 (H.B. No. 2176, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Menor, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 234-06 was adopted and H.B. No. 2176, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HOUSING," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 237-06 (S.B. No. 2956, S.D. 2, H.D. 2, C.D. 1):

By unanimous consent, action on Conf. Com. Rep. No. 237-06 and S.B. No. 2956, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," was deferred until Thursday, May 4, 2006.

## FINAL READING

### MATTERS DEFERRED FROM EARLIER ON THE CALENDAR

Conf. Com. Rep. No. 58-06 (H.B. No. 2422, H.D. 1, S.D. 2, C.D. 1):

By unanimous consent, Conf. Com. Rep. No. 58-06 and H.B. No. 2422, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HIGHWAY SAFETY," were recommitted to the Committee on Conference.

S.B. No. 2917, H.D. 3:

Senator Menor moved that S.B. No. 2917, H.D. 3, having been read throughout, pass Final Reading, seconded by Senator Baker.

At 6:18 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 6:29 o'clock p.m.

By unanimous consent, S.B. No. 2917, H.D. 3, entitled: "A BILL FOR AN ACT RELATING TO HEALTH INSURANCE RATE REGULATION," was recommitted to the Committee on Conference.

Conf. Com. Rep. No. 187-06 (S.B. No. 2133, S.D. 2, H.D. 2, C.D. 1):

By unanimous consent, action on Conf. Com. Rep. No. 187-06 and S.B. No. 2133, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," was deferred until Thursday, May 4, 2006.

**MISCELLANEOUS COMMUNICATIONS**

The following communications (Misc. Com. Nos. 5 and 6), were read by the Clerk and were placed on file:

Misc. Com. No. 5, from the Honorable Robert Bunda, President of the Senate, and the Honorable Calvin K.Y. Say, Speaker of the House of Representatives, dated April 29, 2006, transmitting Legislative Communication No. 1 which extends the Conference Committee deadlines from 12:00 midnight, April 28, 2006, to 12:30 a.m., April 29, 2006.

Misc. Com. No. 6, from the Honorable Robert Bunda, President of the Senate, and the Honorable Calvin K.Y. Say, Speaker of the House of Representatives, dated April 29, 2006, transmitting Legislative Communication No. 2 which further extends the Conference Committee deadlines from 12:30 a.m., April 29, 2006, to 1:00 a.m., April 29, 2006.

At 6:30 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 6:31 o'clock p.m.

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

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

"Mr. President, the Legislature can take pride in numerous accomplishments this Session. However, I am deeply disappointed in the fact that this Body had to recommit a very important pro-consumer measure, S.B. No. 2917, H.D. 3, which would have continued health insurance rate regulation in Hawaii.

"As many of you know, I have been a champion of the health insurance rate regulation act as one of its coauthors during the 2002 Session. The insurance commissioner came out in strong support of health insurance rate regulation this Session because it has generated significant cost savings for consumers and businesses in Hawaii since its implementation. It has also provided needed oversight over our largest health insurance carrier which has dominated the health insurance market.

"The reason why S.B. No. 2917, H.D. 3, had to be recommitted is because it contains a defective date that was inserted by the House. I am deeply disappointed that both the Speaker of the House and the House Consumer Protection Chair, who led House Conferees, have refused repeated requests since Friday by me and Senate Leadership to reconvene a Conference Committee so we can pass out a non-defective clean bill that can be passed to the Governor for her signature.

"It is unfortunate that the House Speaker and the House Consumer Protection Chair, who have shown a partiality to HMSA on other health insurance issues in the past, have stubbornly resisted our efforts to keep health insurance rate

regulation alive. The refusal of the House to cooperate with the Senate I believe represents a major blow to consumers. By recommitting the bill back into Conference Committee, we are giving House Conferees one final opportunity to reconvene a Conference meeting before we sine die on Thursday so we can pass out a conference draft for final action by both houses.

"I sincerely hope that House Leaders will reconsider their position before the end of Session so we can keep health insurance rate regulation alive for consumers. Thank you."

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

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

"Mr. President, I think it's very important, in view of the previous speaker's personal privilege, to bring up an issue that I believe this Legislature, if we had in place an ethics committee in the Senate as we once talked about, we could deal with the very serious issue of embedded lobbyists – people that work for corporations with very large vested interests in what this Legislature does, being on loan to particular Committee Chairs and literally, as we understand, assisting in not only passage, but writing and helping manage legislation that has direct impact on their companies and resources. These embedded lobbyists are influencing legislation. They're not under the lobbyist's laws and therefore I think it's an enormous conflict of interest for the Chairmen that are utilizing these embedded lobbyists.

"What I'm hoping for, under this plea and under personal privilege, is that this Legislature will be aware of the problem and deal with it accordingly so that we may get rid of this undue influence on our process or what I consider to be the undue influence of certain special interests, especially in the Conference Committee process. I subscribe to what the previous speaker said as results go, but more importantly, why did it happen? Possibly a good reason is because of the embedded lobbyists and the special interest they represent.

"Thank you, Mr. President."

**ADJOURNMENT**

At 6:36 o'clock p.m., on motion by Senator Hee, seconded by Senator Hogue and carried, the Senate adjourned until 11:30 o'clock a.m., Thursday, May 4, 2006.

Respectfully submitted,

Clerk of the Senate

Approved:

President of the Senate



ATTACHMENT "A"LINDA LINGLE  
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DEPARTMENT OF THE ATTORNEY GENERAL  
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(808) 586-1500

April 28, 2006

VIA FACSIMILE NO. 586-6071

The Honorable Rosalyn H. Baker  
Chair, Senate Committee on  
Conference  
State Capitol, Room 220  
Honolulu, Hawaii 96813

VIA FACSIMILE NO. 586-6051

The Honorable Dennis A. Arakaki  
Co-Chair, House Conference  
Committee  
State Capitol, Room 436  
Honolulu, Hawaii 96813

VIA FACSIMILE NO. 586-6461

The Honorable Brian T. Taniguchi  
Co-Chair, Senate Committee on  
Conference  
State Capitol, Room 210  
Honolulu, Hawaii 96813

VIA FACSIMILE NO. 586-6381

The Honorable Michael Y. Magaoay  
Co-Chair, House Conference  
Committee  
State Capitol, Room 418  
Honolulu, Hawaii 96813

VIA FACSIMILE NO. 586-6131

The Honorable Suzanne Chun Oakland  
Manager, Senate Committee on  
Conference  
State Capitol, Room 226  
Honolulu, Hawaii 96813

VIA FACSIMILE NO. 586-6331

The Honorable Kyle T. Yamashita  
Manager, House Conference  
Committee  
State Capitol, Room 442  
Honolulu, Hawaii 96813

VIA FACSIMILE NO. 586-6899

The Honorable Carol Fukunaga  
Manager, Senate Committee on  
Conference  
State Capitol, Room 216  
Honolulu, Hawaii 96813

VIA FACSIMILE NO. 586-8524

The Honorable Ann V. Stevens  
Manager, House Conference  
Committee  
State Capitol, Room 318  
Honolulu, Hawaii 96813

VIA FACSIMILE NO. 587-7240

The Honorable Fred Hemmings  
Manager, Senate Committee on  
Conference  
State Capitol, Room 221  
Honolulu, Hawaii 96813

VIA FACSIMILE NO. 586-6151

The Honorable Ryan I. Yamane  
Manager, House Conference  
Committee  
State Capitol, Room 419  
Honolulu, Hawaii 96813

VIA FACSIMILE NO. 586-9608

The Honorable Josh Green, M.D.  
Manager, House Conference  
Committee  
State Capitol, Room 327  
Honolulu, Hawaii 96813

SB 2961, S.D. 1, H.D.1, C.D. 1, Relating to Health  
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Re: Philip Morris U.S.A.'s Opposition to  
SB 2961, S.D. 1, H.D.1, C.D. 1,  
Relating to Health

Dear Conferees:

We understand that Philip Morris USA is asserting that an increase in the tobacco tax would result in a breach of the Master Settlement Agreement (MSA) and that the designated use of the tobacco tax revenues generated by the increase in tobacco taxes would violate the terms of the MSA. Based on the taxing powers of the State, as articulated in Article VII, Section 1, of the Hawaii State Constitution, and the terms of the MSA, we conclude that passage of SB 2961 would not constitute a breach of the MSA.

Article VII, Section 1, of the Hawaii State Constitution clearly states that, "The power of taxation shall never be surrendered, suspended, or contracted away." The view of Philip Morris that the MSA prohibits the Legislature from increasing tobacco taxes implicates this provision. A plain reading of Article VII, Section 1, makes clear that the power of taxation may not be, "surrendered, suspended, or contracted away." For these reasons, a court would conclude that the MSA did not divest Hawaii of its sovereign authority to increase tobacco taxes.

No provision of the MSA expressly bars the Legislature from increasing tobacco taxes. The definition of "claim", as articulated in the MSA, does not expressly include the increase in tobacco taxes by a settling state. The MSA plainly includes an express awareness by the parties that the settling states, as sovereign entities, may choose to increase tobacco taxes and places no restriction on these sovereign entities. A reading of the MSA reveals that the MSA specifically does not prohibit a Participating Manufacturer from, "opposing, or causing to be opposed, any excise tax or income tax provision or user fee or other payments relating to Tobacco Products or Tobacco Product Manufacturers." (MSA Sec. III(m)(1)(C)). Clearly, the manufacturers were protecting their right to oppose potential increases in tobacco taxes. The parties therefore had no intent to prohibit the settling states, as sovereign entities, from increasing tobacco taxes.

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It appears that Philip Morris is relying on a Minnesota case as authority for its position that an increase in the tobacco tax and the use of tax revenues generated by the proposed increase in the tobacco tax are constrained by the terms of the MSA. Because of Philip Morris's reliance on the Minnesota<sup>1</sup> trial court case, we will summarize it here.

In 2005, the Governor of Minnesota signed into law a measure that established a "Tobacco Health Impact Fee" ("Fee"), which imposed a per pack "Fee" of 75 cents on cigarette distributors. The funds generated by the "Fee" were to be used solely to reimburse the State "for state health costs related to or caused by tobacco use" (citation omitted). Liability for the "Fee" was in addition to the tax that was to be paid. Further, the Minnesota statute required the state Human Services Department to certify to the Finance Department each year, "the state share, by fund, of tobacco use attributable costs for the previous fiscal year in Minnesota health care programs, including medical assistance, general assistance medical care, and MinnesotaCare, or other applicable expenditures" (citation omitted). The Finance Department must then transfer, "to the general fund an amount sufficient to offset the general-fund cost of the certified expenditures . . . or the balance of the fund, whichever is less" (citation omitted). It is clear that the revenues from the "Fee" are dedicated solely to reimburse the state for costs incurred because of tobacco use in Minnesota. The fact that the Minnesota statute imposed a "Fee" to recover tobacco-related costs, rather than a "tax" appears to be a critical factor in the trial court's decision. The trial court explained, "[w]hile the Legislature is free to raise revenue by means of a tax, and all parties agree that there would be no basis to override such a tax, the purpose of this legislation was to seek governmental reimbursement for the costs associated with tobacco which distinguishes the [Health Impact Fee] from a tax and makes it a fee" (citation omitted). The Minnesota case is on appeal with the Minnesota Supreme Court.

Here it is clear that S.B. 2961, is intended to increase an established tax. Section 245-3, Hawaii Revised Statutes, provides that, "Every wholesaler or dealer, in addition to any other taxes provided by law, shall pay for the privilege of conducting business and other activities in the State." The excise tax is levied on each cigarette sold, used, or possessed by a wholesaler or dealer. S.B. 2961, does not call for an additional fee to be assessed in addition to the tax, as was the case in Minnesota. At this time we understand that the tobacco tax revenues generated by this measure have been designated to be

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<sup>1</sup> Minnesota is not a signatory to the Tobacco Master Settlement Agreement. Minnesota settled its litigation in 1998 by way of its own settlement agreement.

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used for a wide range of health and medical purposes (Hawaii cancer research fund, emergency medical services, trauma care, and community health centers statewide) rather than being narrowly earmarked for the purpose of reimbursing the government for tobacco-related costs, as was true in Minnesota.

For the reasons discussed above, we conclude that passage of S.B. 2961, which allocates the increase in the tobacco tax to a wide range of health and medical purposes, would not violate the MSA. If there are any questions, please contact me at 586-1199.

Very truly yours,



Earl R. Hoke, Jr.  
Deputy Attorney General

APPROVED:



Mark J. Bennett  
Attorney General