

SIXTIETH DAY

Thursday, May 4, 2006

The Senate of the Twenty-Third Legislature of the State of Hawaii, Regular Session of 2006, convened at 11:58 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by the Reverend Kekapa Lee, Lili'uokalani Protestant Church, after which the Roll was called showing all Senators present.

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

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 579 to 606) were read by the Clerk and were disposed of as follows:

Gov. Msg. No. 579, informing the Senate that on May 1, 2006, she signed into law House Bill No. 2210 as Act 53, entitled: "RELATING TO PEARLRIDGE ELEMENTARY SCHOOL," was placed on file.

Gov. Msg. No. 580, informing the Senate that on May 1, 2006, she signed into law House Bill No. 1833 as Act 54, entitled: "RELATING TO FIREWORKS," was placed on file.

Gov. Msg. No. 581, informing the Senate that on May 1, 2006, she signed into law House Bill No. 2443 as Act 55, entitled: "RELATING TO THE EMERGENCY MANAGEMENT ASSISTANCE COMPACT," was placed on file.

Gov. Msg. No. 582, informing the Senate that on May 1, 2006, she signed into law House Bill No. 3194 as Act 56, entitled: "RELATING TO THE COMMISSION FOR NATIONAL AND COMMUNITY SERVICE," was placed on file.

Gov. Msg. No. 583, informing the Senate that on May 1, 2006, she signed into law House Bill No. 3018 as Act 57, entitled: "RELATING TO GOVERNMENT EMPLOYEES," was placed on file.

Gov. Msg. No. 584, informing the Senate that on May 1, 2006, she signed into law House Bill No. 2780 as Act 58, entitled: "RELATING TO THE DISPOSITION OF CONVICTED DEFENDANTS," was placed on file.

Gov. Msg. No. 585, informing the Senate that on May 1, 2006, she signed into law House Bill No. 1983 as Act 59, entitled: "RELATING TO THE JUDICIARY," was placed on file.

Gov. Msg. No. 586, informing the Senate that on May 1, 2006, she signed into law House Bill No. 2207 as Act 60, entitled: "RELATING TO SEXUAL ASSAULT," was placed on file.

Gov. Msg. No. 587, informing the Senate that on May 2, 2006, she signed into law House Bill No. 2747 as Act 61, entitled: "RELATING TO DRIVER LICENSING," was placed on file.

Gov. Msg. No. 588, informing the Senate that on May 2, 2006, she signed into law House Bill No. 2508 as Act 62, entitled: "RELATING TO WAIVER OF ABANDONED

VEHICLE PUBLIC AUCTION REQUIREMENTS," was placed on file.

Gov. Msg. No. 589, informing the Senate that on May 2, 2006, she signed into law House Bill No. 1899 as Act 63, entitled: "RELATING TO THE USE OF SAFETY HELMETS BY MINORS," was placed on file.

Gov. Msg. No. 590, informing the Senate that on May 2, 2006, she signed into law House Bill No. 3257 as Act 64, entitled: "RELATING TO USE OF INTOXICANTS," was placed on file.

Gov. Msg. No. 591, informing the Senate that on May 2, 2006, she signed into law House Bill No. 2457 as Act 65, entitled: "RELATING TO THE STATE PLAN," was placed on file.

Gov. Msg. No. 592, informing the Senate that on May 2, 2006, she signed into law House Bill No. 877 as Act 66, entitled: "RELATING TO CRIME," was placed on file.

Gov. Msg. No. 593, informing the Senate that on May 2, 2006, she signed into law House Bill No. 1982 as Act 67, entitled: "RELATING TO THE STATE FISH," was placed on file.

Gov. Msg. No. 594, informing the Senate that on May 2, 2006, she signed into law House Bill No. 1984 as Act 68, entitled: "RELATING TO CONVICTION DATA," was placed on file.

Gov. Msg. No. 595, informing the Senate that on May 2, 2006, she signed into law House Bill No. 2192 as Act 69, entitled: "RELATING TO CONTROLLED SUBSTANCES," was placed on file.

Gov. Msg. No. 596, informing the Senate that on May 2, 2006, she signed into law House Bill No. 1947 as Act 70, entitled: "RELATING TO LIABILITY," was placed on file.

Gov. Msg. No. 597, informing the Senate that on May 2, 2006, she signed into law House Bill No. 2434 as Act 71, entitled: "RELATING TO INSURANCE," was placed on file.

Gov. Msg. No. 598, informing the Senate that on May 2, 2006, she signed into law House Bill No. 2898 as Act 72, entitled: "RELATING TO ARBITRATION," was placed on file.

Gov. Msg. No. 599, informing the Senate that on May 2, 2006, she signed into law House Bill No. 3253 as Act 73, entitled: "RELATING TO THE HAWAII RULES OF EVIDENCE," was placed on file.

Gov. Msg. No. 600, informing the Senate that on May 2, 2006, she signed into law House Bill No. 2050 as Act 74, entitled: "RELATING TO INTERNATIONAL MATCHMAKING," was placed on file.

Gov. Msg. No. 601, informing the Senate that on May 2, 2006, she signed into law House Bill No. 1 as Act 75, entitled: "RELATING TO HIGHER EDUCATION," was placed on file.

Gov. Msg. No. 602, dated May 2, 2005, transmitting her statement of objections to House Bill No. 173 which she has returned to the House of Representatives without her approval and which reads as follows:

“EXECUTIVE CHAMBERS
HONOLULU

May 2, 2006

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 173

Honorable Members
Twenty-Third Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 173, entitled ‘A Bill for an Act Relating to the National Guard.’

This bill would require that persons appointed in the future to be the Adjutant General possess at least five years of service as an active commissioned officer in the Hawaii National Guard.

This bill is objectionable because it severely restricts a Governor from selecting and appointing the best military leader from all branches of the military services to serve in this significant position. The importance of the position of Adjutant General is critical to the safety and protection of the public. Limiting the ability of the Governor to select the best and brightest for this cabinet level position is short-sighted and gravely misguided.

The best candidate for Adjutant General may very well be a candidate who is not a member of the National Guard. This is especially true as the United States Department of Defense moves to increase cooperation between branches of the military and require close coordination in response to national defense and natural disasters. This bill would reject the logic that any candidate outside of the Guard could do an outstanding job as commanding general of the Hawaii National Guard.

The Adjutant General not only serves as the executive head of the Department of Defense and commanding general of the Hawaii National Guard, but also fulfills two other crucial roles not directly related to experience in the National Guard.

First, the Adjutant General serves as Director of State Civil Defense, with responsibilities covering homeland security, emergency preparedness, crisis management, and disaster cleanup. The Adjutant General is required to coordinate not only those activities involving the National Guard, but all civil defense or emergency management activities with private, county, state, and federal agencies and military branches. Second, the Adjutant General works with the Office of Veterans Services to assist and support our veterans of all of the armed services in the State of Hawaii. A requirement that the Adjutant General have served no less than five years in the Hawaii National Guard is not a clear and convincing criteria for being able to handle a broad scope of duties the Adjutant General role requires.

The qualifications and appointment as codified in Section 121-7, Hawaii Revised Statutes, have stood the test of time and should not be changed. Other than limiting the appointing power of the Governor, this bill serves no legitimate purpose in protecting the people of Hawaii. The State of Hawaii must not limit itself when it comes to ensuring the security and safety of our people, supporting our veterans, and working collaboratively with all branches of the military.

For the foregoing reasons, I am returning House Bill No. 173 without my approval.

Respectfully,

/s/ Linda Lingle
LINDA LINGLE
Governor of Hawaii,”

was placed on file.

Gov. Msg. No. 603, dated May 2, 2005, transmitting her statement of objections to House Bill No. 1155 which she has returned to the House of Representatives without her approval and which reads as follows:

“EXECUTIVE CHAMBERS
HONOLULU

May 2, 2006

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 1155

Honorable Members
Twenty-Third Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 1155, entitled ‘A Bill for an Act Relating to Naturopathy.’

The purpose of this bill is to require the Board of Examiners in Naturopathy to adopt a formulary and qualifications for administering natural medicines by injection and to grant to qualified naturopaths the authority to administer natural medicines by injection.

This bill is objectionable because it does not provide adequate protection for the health and safety of the public. While the practice of naturopathic medicine has a long history and the administration of ‘natural medicines’ by injection is part of that history, this bill does not sufficiently define ‘natural medicine.’ Although naturopaths would not have access to substances controlled under chapter 329 (Uniform Controlled Substance Act), Hawaii Revised Statutes, or prescription drugs under the purview of chapter 328 (Food, Drugs, and Cosmetics), Hawaii Revised Statutes, there are many substances on the market that are not controlled by law or regulated by the United States Food and Drug Administration and that are touted as ‘natural.’ The injection of some of these substances may cause serious harm or death to recipients of such injections.

Additionally, this bill provides that a temporary advisory committee on the administration of natural medicines by injection be formed to recommend to the Board of Examiners in Naturopathy a formulary of natural medicines that naturopaths may administer by injection and the qualifications necessary for administering natural medicines by injection. This committee would be composed of two persons licensed as naturopathic physicians under chapter 455 (Naturopathy), Hawaii Revised Statutes, and appointed by the Board of Examiners in Naturopathy; one person licensed in medicine under chapter 453 (Medicine and Surgery), Hawaii Revised Statutes, and appointed by the Board of Medical Examiners; and one person licensed as a pharmacist under chapter 461 (Pharmacists and Pharmacy), Hawaii Revised Statutes, and appointed by the Board of Pharmacy. The temporary committee’s recommendations would be acted upon by the Board of Examiners in Naturopathy, composed of three naturopathic physicians and two public members. Thus, the determination of what constitutes a ‘natural medicine,’ as well as the qualifications necessary to inject those substances into patients, would be primarily the decision of naturopaths themselves.

It would be preferable that any formulary of injectable 'natural medicines' and the qualifications to administer by injection be overseen by medical doctors, as is the case with nurses.

For the foregoing reasons, I am returning House Bill No. 1155 without my approval.

Respectfully,

/s/ Linda Lingle
LINDA LINGLE
Governor of Hawaii,"

was placed on file.

Gov. Msg. No. 604, dated May 2, 2005, transmitting her statement of objections to House Bill No. 2454 which she has returned to the House of Representatives without her approval and which reads as follows:

“EXECUTIVE CHAMBERS
HONOLULU

May 2, 2006

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 2454

Honorable Members
Twenty-Third Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 2454, entitled 'A Bill for an Act Relating to Legislative Vacancies.'

The purpose of this bill is to require the Governor, in filling vacancies in the State Legislature and the United States Senate, to select a replacement from a list of three prospective appointees nominated by the political party of the prior incumbent.

The goal of the present law is to fill vacancies in the State Legislature and the United States Senate in a timely manner when such vacancies occur. These vacancies in elective office are appropriately filled by the Governor, who is elected by the public at large, and as such is accountable to them. The process for filling vacancies in the United States Senate and the Hawaii State Legislature has been in place since 1970 and has not been shown to have compromised the integrity of the election process.

This bill places the ability for determining who may be appointed by the Governor with the political party leadership of the vacating office holder. This is in spite of the fact that these individuals are not elected by the public and, as such, are not accountable to them.

Additionally, the bill, without any stated rationale, narrows the field of qualified candidates that the political party can consider to those who have been registered members of that party for at least six months prior to the appointment. Such a provision fails to recognize that this may unreasonably restrict the pool of potential candidates as the majority of people who personally and philosophically associate themselves with a political party and vote along party lines may not meet this requirement.

The Governor's ability and responsibility to select the most qualified person to fill a vacancy should not be so narrowly restricted.

For the foregoing reasons, I am returning House Bill No. 2454 without my approval.

Respectfully,

/s/ Linda Lingle
LINDA LINGLE
Governor of Hawaii,"

was placed on file.

Gov. Msg. No. 605, advising the Senate of the withdrawal of the nomination of LINDA L. SMITH to the Hawaii Public Housing Administration (PHA), under Gov. Msg. No. 515, dated April 19, 2006, was placed on file.

In compliance with Gov. Msg. No. 605, the nomination listed under Gov. Msg. No. 515 was returned.

Gov. Msg. No. 606, informing the Senate that on May 2, 2006, she permitted the following measure to become law without her signature, pursuant to Section 16 of Article III of the State Constitution, which reads as follows:

House Bill No. 1233 as Act 76, entitled: "RELATING TO CIVIL RIGHTS."

"Dear Mr. President and Members of the Senate:

Re: House Bill No. 1233 HD1 SD1

On May 2, 2006, House Bill 1233, entitled 'Relating to Civil Rights' became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

The bill would prohibit discrimination based on sexual orientation in public accommodations. The measure would also prohibit discrimination in public accommodations based on gender identity or expression.

'Sexual orientation' has been defined to mean having a preference for heterosexuality, homosexuality, or bisexuality, having a history of any one or more of these preferences, or being identified with any one or more of these preferences. Hawaii law currently prohibits discrimination based on sexual orientation in the areas of housing (HRS 515-3) and employment (HRS 378-2).

Further, it should be noted that HRS Chapter 368 contains the following language in the purpose and intent: 'The legislature finds and declares that the practice of discrimination because of race, color, religion, age, sex, sexual orientation, marital status, national origin, ancestry, or disability in employment, housing, public accommodations, or access to services receiving State financial assistance is against public policy.' (underlines added) Thus, it would appear that the Hawaii Civil Rights Commission already has a basis in law to enforce prohibitions against discrimination in public accommodations based on sexual orientation and this portion of HB 1233 restates what is already a protected class.

This bill further defines 'gender identity or expression' to include a person's actual or perceived gender, gender identity, gender-related self-image, gender-related appearance or gender-related expression, regardless of whether that gender identity, gender-related self-image, gender-related appearance, or

gender-related expression is different from that traditionally associated with the person's sex at birth.

This part of the bill is problematic. The definitions are broad, subjective, and contain no limiting terms or interpretational guidelines. The Hawaii Civil Rights Commission currently interprets 'sex discrimination' to include the abuses related to the treatment of individuals who have a gender identity or expression that is different from their birth sex. This interpretation of prohibited sex discrimination is in line with recent court cases in our federal judiciary and sister states. However, the definition in this bill is broader than the current interpretation of sex discrimination. Undefined and overly broad language can lead to disputes and create the potential for escalating reasonable actions by the owners and operators of public accommodations into legal proceedings. Such broad and subjective definitions should not be allowed to become a proxy for socially unacceptable behavior in public places.

It is also unclear how the definitions of gender identity or expression found in section 2 of this bill impact section 489-4 of the Hawaii Revised Statutes. Section 489-4 allows a public accommodation to provide separate facilities for male and female patrons for the protection of personal rights of privacy. People have a legitimate right to privacy and it appears the broad language of this measure could interfere with these legitimate rights. This lack of clarity may result in unintended and unwanted confusions and litigation in public accommodations law that should be addressed promptly by the Legislature.

Because this bill restates an existing protection for the class 'sexual orientation' and clarifies those protections extend to public accommodations in Section 489-2 and Section 489-3 of HRS, there is merit in these provisions of the measure.

For the foregoing reasons I allowed House Bill 1233 HD1 SD1 to become law as Act 76 effective May 2, 2006 without my signature.

Sincerely,

/s/ Linda Lingle
LINDA LINGLE,"

was placed on file.

DEPARTMENTAL COMMUNICATION

Dept. Com. No. 51, from the State Auditor dated May 1, 2006, transmitting a report, "Management Audit of the Hawaii Youth Correctional Facility," (Report No. 06-03), was read by the Clerk and was placed on file.

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 850 to 863) were read by the Clerk and were placed on file:

Hse. Com. No. 850, informing the Senate that the following bills passed Final Reading in the House of Representatives on May 2, 2006:

- H.B. No. 237, H.D. 3, S.D. 1, C.D. 1;
- H.B. No. 266, H.D. 1, S.D. 2, C.D. 1;
- H.B. No. 386, H.D. 1, S.D. 1, C.D. 1;
- H.B. No. 439, H.D. 1, S.D. 2, C.D. 1;
- H.B. No. 862, H.D. 2, S.D. 2, C.D. 1;
- H.B. No. 970, H.D. 1, S.D. 1, C.D. 1;
- H.B. No. 1021, H.D. 2, S.D. 2, C.D. 1;

- H.B. No. 1280, H.D. 1, S.D. 2, C.D. 1;
- H.B. No. 1706, H.D. 3, S.D. 1, C.D. 1;
- H.B. No. 1800, H.D. 1, S.D. 1, C.D. 1;
- H.B. No. 1809, H.D. 2, S.D. 2, C.D. 1;
- H.B. No. 1821, H.D. 2, S.D. 2, C.D. 1;
- H.B. No. 1861, S.D. 1, C.D. 1;
- H.B. No. 1862, H.D. 2, S.D. 2, C.D. 1;
- H.B. No. 1865, H.D. 1, S.D. 2, C.D. 1;
- H.B. No. 1866, H.D. 1, S.D. 2, C.D. 1;
- H.B. No. 1867, H.D. 1, S.D. 2, C.D. 1;
- H.B. No. 1871, H.D. 1, S.D. 2, C.D. 1;
- H.B. No. 1878, S.D. 1, C.D. 1;
- H.B. No. 1879, H.D. 1, S.D. 1, C.D. 1;
- H.B. No. 1880, H.D. 2, S.D. 2, C.D. 1;
- H.B. No. 1889, H.D. 1, S.D. 2, C.D. 1;
- H.B. No. 1891, H.D. 2, S.D. 2, C.D. 1;
- H.B. No. 1900, H.D. 1, S.D. 1, C.D. 1;
- H.B. No. 1917, H.D. 2, S.D. 2, C.D. 1;
- H.B. No. 1918, H.D. 1, S.D. 2, C.D. 1;
- H.B. No. 1923, H.D. 1, S.D. 2, C.D. 1;
- H.B. No. 1935, H.D. 1, S.D. 1, C.D. 1;
- H.B. No. 1955, H.D. 1, S.D. 1, C.D. 1;
- H.B. No. 1968, H.D. 1, S.D. 1, C.D. 1;
- H.B. No. 1995, H.D. 1, S.D. 2, C.D. 1;
- H.B. No. 2039, H.D. 2, S.D. 2, C.D. 1;
- H.B. No. 2045, H.D. 2, S.D. 1, C.D. 1;
- H.B. No. 2051, H.D. 1, S.D. 2, C.D. 1;
- H.B. No. 2075, H.D. 1, S.D. 2, C.D. 1;
- H.B. No. 2109, H.D. 1, S.D. 2, C.D. 1;
- H.B. No. 2145, H.D. 2, S.D. 1, C.D. 1;
- H.B. No. 2146, H.D. 1, S.D. 1, C.D. 1;
- H.B. No. 2153, H.D. 2, S.D. 2, C.D. 1;
- H.B. No. 2175, H.D. 2, S.D. 2, C.D. 1;
- H.B. No. 2176, H.D. 2, S.D. 2, C.D. 1;
- H.B. No. 2179, H.D. 2, S.D. 2, C.D. 1;
- H.B. No. 2199, H.D. 2, S.D. 1, C.D. 1;
- H.B. No. 2211, H.D. 1, S.D. 1, C.D. 1;
- H.B. No. 2214, H.D. 1, S.D. 2, C.D. 1;
- H.B. No. 2239, H.D. 1, S.D. 2, C.D. 1;
- H.B. No. 2265, H.D. 2, S.D. 1, C.D. 1;
- H.B. No. 2271, H.D. 1, S.D. 2, C.D. 1;
- H.B. No. 2277, H.D. 2, S.D. 2, C.D. 1;
- H.B. No. 2299, H.D. 1, S.D. 1, C.D. 1;
- H.B. No. 2343, H.D. 1, S.D. 2, C.D. 1;
- H.B. No. 2367, H.D. 1, S.D. 1, C.D. 1;
- H.B. No. 2399, H.D. 2, S.D. 1, C.D. 1;
- H.B. No. 2410, H.D. 1, S.D. 2, C.D. 1;
- H.B. No. 2412, H.D. 1, S.D. 1, C.D. 1;
- H.B. No. 2500, H.D. 2, S.D. 2, C.D. 1;
- H.B. No. 2503, H.D. 2, S.D. 1, C.D. 1;
- H.B. No. 2540, H.D. 2, S.D. 2, C.D. 1;
- H.B. No. 2555, H.D. 2, S.D. 2, C.D. 1;
- H.B. No. 2558, H.D. 1, S.D. 2, C.D. 1;
- H.B. No. 2595, H.D. 1, S.D. 2, C.D. 1;
- H.B. No. 2626, S.D. 1, C.D. 1;
- H.B. No. 2637, H.D. 1, S.D. 2, C.D. 1;
- H.B. No. 2639, H.D. 2, S.D. 2, C.D. 1;
- H.B. No. 2669, H.D. 1, S.D. 2, C.D. 1;
- H.B. No. 2678, H.D. 2, S.D. 2, C.D. 1;
- H.B. No. 2691, S.D. 2, C.D. 1;
- H.B. No. 2692, H.D. 1, S.D. 1, C.D. 1;
- H.B. No. 2708, H.D. 2, S.D. 2, C.D. 1;
- H.B. No. 2772, H.D. 1, S.D. 2, C.D. 1;
- H.B. No. 2778, H.D. 2, S.D. 2, C.D. 1;
- H.B. No. 2805, S.D. 1, C.D. 1;
- H.B. No. 2848, H.D. 2, S.D. 2, C.D. 1;
- H.B. No. 2899, H.D. 1, S.D. 1, C.D. 1;
- H.B. No. 2947, H.D. 2, S.D. 2, C.D. 1;
- H.B. No. 2961, H.D. 1, S.D. 1, C.D. 1;
- H.B. No. 2966, H.D. 2, S.D. 2, C.D. 1;
- H.B. No. 2974, S.D. 1, C.D. 1;

H.B. No. 2991, H.D. 2, S.D. 2, C.D. 1;
 H.B. No. 3016, H.D. 1, S.D. 1, C.D. 1;
 H.B. No. 3056, H.D. 2, S.D. 2, C.D. 1;
 H.B. No. 3105, H.D. 2, S.D. 2, C.D. 1;
 H.B. No. 3116, H.D. 2, S.D. 2, C.D. 1;
 H.B. No. 3121, H.D. 2, S.D. 1, C.D. 1;
 H.B. No. 3142, H.D. 2, S.D. 2, C.D. 1;
 H.B. No. 3217, H.D. 1, S.D. 1, C.D. 1;
 H.B. No. 3225, H.D. 1, S.D. 1, C.D. 1;
 H.B. No. 3235, H.D. 1, S.D. 1, C.D. 1;
 H.B. No. 3242, S.D. 1, C.D. 1;
 H.B. No. 3244, H.D. 1, S.D. 2, C.D. 1;
 H.B. No. 3256, H.D. 1, S.D. 1, C.D. 1;
 H.B. No. 3259, H.D. 1, S.D. 2, C.D. 1;
 S.B. No. 427, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 439, H.D. 2, C.D. 1;
 S.B. No. 467, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 475, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 486, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 696, S.D. 1, H.D. 2, C.D. 1;
 S.B. No. 706, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 743, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 819, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 826, H.D. 2, C.D. 1;
 S.B. No. 845, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 895, S.D. 1, H.D. 2, C.D. 1;
 S.B. No. 951, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 965, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 995, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 1223, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 1294, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 1648, S.D. 1, H.D. 2, C.D. 1;
 S.B. No. 1899, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 2004, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 2021, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 2036, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 2065, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 2076, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 2090, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 2133, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 2143, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 2145, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 2150, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 2159, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 2162, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 2188, S.D. 1, H.D. 2, C.D. 1;
 S.B. No. 2190, S.D. 1, H.D. 2, C.D. 1;
 S.B. No. 2193, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 2214, S.D. 2, H.D. 3, C.D. 1;
 S.B. No. 2227, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 2237, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 2244, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 2246, S.D. 1, H.D. 2, C.D. 1;
 S.B. No. 2248, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 2260, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 2273, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 2274, S.D. 1, H.D. 2, C.D. 1;
 S.B. No. 2283, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 2290, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 2292, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 2293, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 2298, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 2323, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 2327, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 2328, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 2334, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 2339, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 2343, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 2348, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 2358, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 2360, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 2430, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 2479, H.D. 1, C.D. 1;
 S.B. No. 2480, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 2484, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 2485, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 2486, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 2487, H.D. 1, C.D. 1;
 S.B. No. 2501, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 2502, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 2504, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 2505, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 2545, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 2570, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 2575, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 2600, S.D. 1, H.D. 2, C.D. 1;
 S.B. No. 2630, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 2667, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 2708, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 2719, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 2720, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 2727, S.D. 1, H.D. 2, C.D. 1;
 S.B. No. 2753, S.D. 1, H.D. 2, C.D. 1;
 S.B. No. 2774, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 2879, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 2887, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 2897, S.D. 2, H.D. 3, C.D. 1;
 S.B. No. 2898, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 2901, H.D. 1, C.D. 1;
 S.B. No. 2909, S.D. 1, H.D. 2, C.D. 1;
 S.B. No. 2929, H.D. 1, C.D. 1;
 S.B. No. 2941, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 2948, S.D. 1, H.D. 2, C.D. 1;
 S.B. No. 2957, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 2958, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 2980, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 2984, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 2997, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 3000, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 3003, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 3009, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 3035, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 3059, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 3065, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 3072, S.D. 1, H.D. 2, C.D. 1;
 S.B. No. 3076, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 3077, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 3078, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 3090, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 3101, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 3105, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 3111, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 3119, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 3120, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 3180, S.D. 1, H.D. 2, C.D. 1;
 S.B. No. 3181, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 3185, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 3192, S.D. 1, H.D. 2, C.D. 1;
 S.B. No. 3195, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 3197, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 3215, S.D. 1, H.D. 2, C.D. 1;
 S.B. No. 3247, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 3252, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 3253, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 3254, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 3262, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 3270, S.D. 2, H.D. 1, C.D. 1; and
 S.B. No. 3273, S.D. 2, H.D. 2, C.D. 1.

Hse. Com. No. 851, informing the Senate that the House reconsidered its action taken in disagreeing to the amendments made by the Senate to H.B. No. 2278, H.D. 1, and the

amendments proposed by the Senate were agreed to by the House and H.B. No. 2278, H.D. 1, S.D. 2, passed Final Reading in the House of Representatives on May 2, 2006.

Hse. Com. No. 852, informing the Senate that the House reconsidered its action taken in disagreeing to the amendments made by the Senate to H.B. No. 2313, and the amendments proposed by the Senate were agreed to by the House and H.B. No. 2313, S.D. 1, passed Final Reading in the House of Representatives on May 2, 2006.

Hse. Com. No. 853, informing the Senate that the House reconsidered its action taken in disagreeing to the amendments made by the Senate to H.B. No. 2315, and the amendments proposed by the Senate were agreed to by the House and H.B. No. 2315, S.D. 2, passed Final Reading in the House of Representatives on May 2, 2006.

Hse. Com. No. 854, informing the Senate that the House reconsidered its action taken in disagreeing to the amendments made by the Senate to H.B. No. 2319, H.D. 1, and the amendments proposed by the Senate were agreed to by the House and H.B. No. 2319, H.D. 1, S.D. 1, passed Final Reading in the House of Representatives on May 2, 2006.

Hse. Com. No. 855, informing the Senate that the House reconsidered its action taken in disagreeing to the amendments made by the Senate to H.B. No. 2423, H.D. 1, and the amendments proposed by the Senate were agreed to by the House and H.B. No. 2423, H.D. 1, S.D. 1, passed Final Reading in the House of Representatives on May 2, 2006.

Hse. Com. No. 856, informing the Senate that the House reconsidered its action taken in disagreeing to the amendments made by the Senate to H.B. No. 2535, and the amendments proposed by the Senate were agreed to by the House and H.B. No. 2535, S.D. 2, passed Final Reading in the House of Representatives on May 2, 2006.

Hse. Com. No. 857, informing the Senate that the House reconsidered its action taken in disagreeing to the amendments made by the Senate to H.B. No. 2641, H.D. 1, and the amendments proposed by the Senate were agreed to by the House and H.B. No. 2641, H.D. 1, S.D. 2, passed Final Reading in the House of Representatives on May 2, 2006.

Hse. Com. No. 858, informing the Senate that the House reconsidered its action taken in disagreeing to the amendments made by the Senate to H.B. No. 2713, H.D. 1, and the amendments proposed by the Senate were agreed to by the House and H.B. No. 2713, H.D. 1, S.D. 1, passed Final Reading in the House of Representatives on May 2, 2006.

Hse. Com. No. 859, informing the Senate that the House reconsidered its action taken in disagreeing to the amendments made by the Senate to H.B. No. 2964, H.D. 1, and the amendments proposed by the Senate were agreed to by the House and H.B. No. 2964, H.D. 1, S.D. 2, passed Final Reading in the House of Representatives on May 2, 2006.

Hse. Com. No. 860, informing the Senate that the House reconsidered its action taken in disagreeing to the amendments made by the Senate to H.B. No. 2987, H.D. 1, and the amendments proposed by the Senate were agreed to by the House and H.B. No. 2987, H.D. 1, S.D. 2, passed Final Reading in the House of Representatives on May 2, 2006.

Hse. Com. No. 861, informing the Senate that the House reconsidered its action taken in disagreeing to the amendments made by the Senate to H.B. No. 3100, H.D. 1, and the amendments proposed by the Senate were agreed to by the

House and H.B. No. 3100, H.D. 1, S.D. 1, passed Final Reading in the House of Representatives on May 2, 2006.

Hse. Com. No. 862, informing the Senate that the amendments proposed by the Senate to H.C.R. No. 145, H.D. 1, were agreed to by the House and H.C.R. No. 145, H.D. 1, S.D. 1, was adopted in the House of Representatives on May 2, 2006.

Hse. Com. No. 863, informing the Senate that the amendments proposed by the Senate to H.C.R. No. 164, were agreed to by the House and H.C.R. No. 164, S.D. 1, was adopted in the House of Representatives on May 2, 2006.

ORDER OF THE DAY

ADVISE AND CONSENT

MATTERS DEFERRED FROM TUESDAY, MAY 2, 2006

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

Senator Kokubun moved that Stand. Com. Rep. No. 3763 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:

EVELYN E. SOUZA, term to expire June 30, 2010 (Gov. Msg. No. 318); and

MAEDA C. TIMSON, term to expire June 30, 2010 (Gov. Msg. No. 366),

seconded by Senator Hooser.

The motion to advise and consent to the nomination of EVELYN E. SOUZA was put by the Chair and carried on the following showing of Ayes and Noes:

Ayes, 18. Noes, 7 (Baker, Chun Oakland, Fukunaga, Ige, Ihara, Inouye, Kanno).

The motion to advise and consent to the nomination of MAEDA C. TIMSON was put by the Chair and carried on the following showing of Ayes and Noes:

Ayes, 21. Noes, 4 (Hemmings, Slom, Trimble, Whalen).

Gov. Msg. No. 515:

By unanimous consent, Gov. Msg. No. 515 was recommitted to the Committee on Commerce, Consumer Protection and Housing.

At 12:05 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:07 o'clock p.m.

ADVISE AND CONSENT

Stand. Com. Rep. No. 3826 (Gov. Msg. No. 428):

By unanimous consent, Stand. Com. Rep. No. 3826 was received and placed on file.

At 12:07 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 moved that the Senate advise and consent to the nomination of FRANK DE LUZ III to the Board of Land and Natural Resources, term to expire June 30, 2010, seconded by Senator Hogue.

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

"Mr. President, I do want to rise and speak and urge my colleagues to consider the circumstances and the opposition to Mr. De Luz that was expressed in the Committee that resulted in him not getting an affirmative vote in Committee. We brought this to the Floor to make sure that this man has his day in court and is fairly dealt with by this Senate.

"I have here an e-mail from a well-orchestrated effort to scuttle his nomination and it says please vote no for Mr. De Luz. One of the accusations is Mr. De Luz illegally cut trees on his property, which is an action that suggests that he's unfit to sit on a conservation board, the Board of Land and Natural Resources. The facts of the matter are that he was in the process of transferring the ownership of that land to another person who cut the trees. When he found out about it, he did not go through with the transaction, and since that time, the trees have grown back. So it's a falsehood that he cut the trees himself. It really is unfair to charge him with that when he in fact did not cut the trees.

"There's another issue that I think all of us should be aware of when we talk about Mr. De Luz. I believe that the environmental community should be represented both on the Board of Land and Natural Resources and on the Land Use Commission. I would suggest to you that Mr. De Luz is in fact an environmentalist, as I am. I'm an environmentalist, and I'd like to ask all of you, what is an environmentalist? An environmentalist is not necessarily someone who goes to college and gets a degree in environmentalism. It's someone who supports conservation and preservation of our natural environment. Many of the great people that are recognized as environmentalists don't have backgrounds in environmentalism. The founder and CEO of Earthtrust has a degree in geophysics. The Sierra Club gentleman that's down here lobbying all the time has a degree in engineering or has an engineering background. The Sierra Club Chapter on Kauai has a retired teacher heading up the effort there. On Oahu the Oahu spokesman for the Sierra Club is a lawyer. On Maui, the Sierra Club representative is a real estate company, someone I think the environmentalists might say is the enemy of the environment.

"I'm a surfer. I voted in favor of the bottle bill, much to the consternation of some of the people on my side of the aisle. I voted to stop beach land from being acquired by eminent domain and condemnation. I was in the Save Our Surf committee to stop Sandy Beach from being developed and I'm presently working with the administration to put the Northwest Islands into stewardship and make it the world's largest natural area reserve.

"Mr. De Luz could be described as an environmentalist. He's a rancher. Ranchers make their living off stewardship of land. Ranchers have to make sure that the water is there, the grass is there. They have to manage their land intelligently so it continues to be bountiful. For these people who are on the witch hunt against Mr. De Luz to say that he's not an environmentalist and should not be on the Board of Land and Natural Resources is just an outright misrepresentation of fact.

"I would urge my colleagues not to jump on this convenient 'politically correct' bandwagon and vote in favor of Mr. De Luz. He's a good man, a local boy who spent his life on the Big Island and has been wrongfully attacked.

"The attacks on him were so petty, Mr. President and colleagues, that someone was challenging the fact that a lawyer helped him write his testimony for the Committee when he came in for advise and consent in front of Water, Land, and Agriculture. The reason I say it was petty is because Mr. De Luz is blind and he needed help writing his presentation, and quite frankly also wanted help to make sure that he had his T's crossed and his I's dotted correctly. So Mr. De Luz has been wrongfully attacked and wrongfully ascribed as being anti-environment when in fact he is a well-qualified local boy whose history goes back four generations on the Big Island. He is a keiki o ka aina. He is an environmentalist, and he deserves to be on this board and not be subject to this environmentally correct lynching.

"I would urge my colleagues to vote in favor of this nomination."

Senator Kokubun rose to speak against the nominee and said:

"Mr. President, I stand in opposition to Gov. Msg. No. 428.

"Mr. President, this is not an easy thing for me to do. I have known Frank De Luz for a number of years, in fact I had the opportunity to serve with Mr. De Luz on the Hawaii County Council. However, I would just like to bring to my colleague's attention the fact that the Board of Land and Natural Resources to me is one of the most important boards or commissions in the State of Hawaii. It deals with our natural resources. We need to be sure that people who serve on this board know resource management, that they know what their responsibilities are with respect to state lands, and that they can do so in a manner that would avoid any sort of perception of conflict, if you will, in terms of how these decisions are being made.

"The good Senator from Waimanalo makes a good point that Frank De Luz is a self-made man. I do not deny that at all. He has worked hard his whole life and I credit him for that. And in our discussion at the confirmation hearing before your Committee on Water, Land, and Agriculture, I want to assure my colleagues that this was not a lynching; this was not an opportunity to castigate Mr. De Luz. Now, I'm not necessarily representing all who have submitted testimony in opposition to Mr. De Luz, but I think your Committee had a very objective approach in asking Mr. De Luz some of the critical questions that needed to be answered.

"Let me just start by saying first, with respect to the violation where he cut trees down in a special management area, even though the land was in escrow, the fact of the matter is that Mr. De Luz was the owner of the land. He also acknowledged the fact that this was a wrongful act and paid the fine. So in my mind, he was a partner to what was going on and he was a willful player in what occurred on his land. To his credit, though, he did admit that it was wrong and he paid the fine. But I think for us, especially for a board member, we cannot always look retrospectively. We need to be prospective in how decisions are going to be made that affect the resources of our state.

"The other point that for me was the turning point in my decision was his response to what constitutes conflict of interest. In his mind, Mr. De Luz feels that by turning his businesses over to his holdings over to his daughters, that that would eliminate any sort of conflict of interest. In particular, there is a revocable permit that Mr. De Luz has with the state

for pasture land and he would be making decisions with respect to the disposition of that revocable permit. In his response to how he would address that issue, he again indicated that he would turn the revocable permit over to his daughter and hence that would eliminate any sort of conflict on his part in terms of decision making.

“Mr. President, I feel that we have to demand the best from our members, particularly for the Board of Land and Natural Resources and, as will be upcoming later, for the Land Use Commission. I know that those are just two boards and commissions under the purview of the Water, Land, and Agriculture Committee but I really think that those are such critical commissions because they make far reaching decisions about our valuable resources and the use of our lands in Hawaii.

“So for that reason, Mr. President, I cannot support Mr. De Luz for this position. Thank you.”

The motion was put by the Chair and, Roll Call vote having been requested, failed to carry on the following showing of Ayes and Noes:

Ayes, 5. Noes, 19 (Baker, Bunda, Chun Oakland, English, Espero, Fukunaga, Hanabusa, Hee, Hooser, Ige, Ihara, Inouye, Kanno, Kim, Kokubun, Menor, Nishihara, Sakamoto, Tsutsui). Excused, 1 (Taniguchi).

Stand. Com. Rep. No. 3827 (Gov. Msg. No. 473):

By unanimous consent, Stand. Com. Rep. No. 3827 was received and placed on file.

At 12:23 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:24 o'clock p.m.

Senator Espero moved that the Senate advise and consent to the nomination of ALMA A. CABERTO to the Land Use Commission, term to expire June 30, 2010, seconded by Senator Hogue.

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

The Senate reconvened at 12:27 o'clock p.m.

The motion was put by the Chair and failed to carry on the following showing of Ayes and Noes:

Ayes, 4. Noes, 21 (Baker, Bunda, Chun Oakland, English, Fukunaga, Hanabusa, Hee, Hemmings, Hogue, Hooser, Ige, Ihara, Inouye, Kanno, Kim, Kokubun, Nishihara, Sakamoto, Taniguchi, Tsutsui, Whalen).

FINAL READING

MATTERS DEFERRED FROM TUESDAY, MAY 2, 2006

Conf. Com. Rep. No. 187-06 (S.B. No. 2133, S.D. 2, H.D. 2, C.D. 1):

Senator Baker moved that Conf. Com. Rep. No. 187-06 be adopted and S.B. No. 2133, S.D. 2, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Tsutsui.

Senator Ihara rose in opposition to the measure and said:

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

“I am opposed to this bill because this is one of the two gut and replace bills that clearly did not get three readings. This one did not have three readings in the Senate. The other bill is H.B. No. 237. Because of the Taomae v Lingle court case, I believe that there is a legal cloud over this bill, actually both bills, and a lawsuit may be needed to remove this cloud.

“On the contents of this bill, I am in favor of Part I and I have reservations on Part II. Mr. President and colleagues, I plan to request and propose a rule change next Session on a germaneness rule that most other legislatures already have in their rules. A germaneness rule would limit amendments to bills to what is germane to the original contents of the bill. I believe such a rule will resolve the gut and replace problem and end the legal cloud in the future. Thank you.”

Senator Hemmings rose and said:

“Mr. President, will the previous speaker yield to a question?”

The President then posed the question, and Senator Ihara having answered in the affirmative, Senator Hemmings inquired as follows:

“Good Senator, how would that affect the customary practice of introducing vehicle bills?”

Senator Ihara responded:

“For short form bills, the process is that it comes down to the Floor. A short form bill is passed on First Reading; the substantive contents are inserted into a short form bill, which then goes back to the Floor for a reading and referral back to be recommitted to the Committee that submitted the substantive contents and then a hearing is held. So in effect, four readings are held – three readings on the substantive contents of such a bill is held.”

Senator Hemmings then said:

“Thank you, Senator. Thank you, Mr. President.”

Senator Ige then rose and said:

“Mr. President, I would just like to note my support with reservations.”

The Chair so ordered.

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. 187-06 was adopted and S.B. No. 2133, S.D. 2, H.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, 22. Noes, 3 (Ihara, Slom, Trimble).

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, was deferred to the end of the calendar.

FINAL READING

Conf. Com. Rep. No. 238-06 (S.B. No. 2546, S.D. 1, H.D. 2, C.D. 1):

By unanimous consent, action on Conf. Com. Rep. No. 238-06 and S.B. No. 2546, S.D. 1, H.D. 2, C.D. 1, was deferred to the end of the calendar.

Conf. Com. Rep. No. 239-06 (H.B. No. 2043, H.D. 2, S.D. 3, C.D. 1):

Senator Chun Oakland moved that Conf. Com. Rep. No. 239-06 be adopted and H.B. No. 2043, H.D. 2, S.D. 3, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Tsutsui.

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

The motion was put by the Chair and carried, Conf. Com. Rep. No. 239-06 was adopted and H.B. No. 2043, H.D. 2, S.D. 3, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MEDICAID," 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. 240-06 (H.B. No. 2258, H.D. 1, S.D. 2, C.D. 1):

Senator Chun Oakland moved that Conf. Com. Rep. No. 240-06 be adopted and H.B. No. 2258, H.D. 1, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

Senator Hemmings rose and said:

"Mr. President, I rise for a conflict ruling. My wife testified on the bill and is a beneficiary of TANF funds."

The Chair ruled that Senator Hemmings was not in conflict.

The motion was put by the Chair and carried, Conf. Com. Rep. No. 240-06 was adopted and H.B. No. 2258, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HUMAN SERVICES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, 6 (Hee, Hemmings, Hogue, Slom, Trimble, Whalen).

Conf. Com. Rep. No. 241-06 (H.B. No. 2878, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Kokubun, seconded by Senator Espero and carried, Conf. Com. Rep. No. 241-06 was adopted 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," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 242-06 (H.B. No. 2806, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Kokubun, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 242-06 was

adopted and H.B. No. 2806, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SUSTAINABILITY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 243-06 (H.B. No. 3036, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Menor, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 243-06 was adopted and H.B. No. 3036, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONTRACTS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 244-06 (H.B. No. 3118, H.D. 1, S.D. 1, C.D. 1):

Senator Menor moved that Conf. Com. Rep. No. 244-06 be adopted and H.B. No. 3118, H.D. 1, S.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

Senator Slom rose in opposition to the measure as follows:

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

"This bill was one of those bills that gave a great deal of humor to political writers and to analysts shaking their heads. This bill if it had been amended to say let's have responsible government, and let's have responsible labor unions, and let's have responsible special interest, it would be fine, but instead it singles out corporations and it's going to have a team, now it's down to a task force. It will design what a model corporation should be – probably by most people who have never met a private payroll in their lives and don't know what it means to be subject to both the whims of consumers and customers and also to stockholders and investors.

"This bill is a sham. It would not improve business or corporations but would single them out. And if you read through the bill, the motives of the sponsors of this original legislation are very clear – they don't like business, they don't like corporations, but they have no other problem with anyone else in the community.

"So it's a bad bill and I urge a 'no' vote."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 244-06 was adopted and H.B. No. 3118, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CORPORATIONS," 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. 245-06 (H.B. No. 3261, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Espero, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 245-06 was adopted 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," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 4 (Hemmings, Hogue, Slom, Trimble).

Conf. Com. Rep. No. 246-06 (H.B. No. 3060, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Fukunaga, seconded by Senator Espero and carried, Conf. Com. Rep. No. 246-06 was adopted and H.B. No. 3060, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HIGH TECHNOLOGY," 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. 247-06 (H.B. No. 2419, H.D. 1, S.D. 3, C.D. 1):

Senator Fukunaga moved that Conf. Com. Rep. No. 247-06 be adopted and H.B. No. 2419, H.D. 1, S.D. 3, 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.

"First of all, it creates a special fund. Secondly, it is a bill that talks about streamlining taxes but in fact really is not streamlining taxes at all. What the bill really wants to do is to enforce taxation of internet or out-of-state sales. We've talked about this bill before in the context of the fact that there are growing numbers of interstate sales and interstate activity. This bill was sold to us last year as being just a way of recapturing taxes that are due to the State of Hawaii because of non-collection of use taxes.

"There are so many problems with this bill, however, one of them goes back to the 1992 US Supreme Court decision referred to as the Quill decision, which prohibits states from taxing other states and entering into compacts with other states. That is reserved to the federal government unless the federal government passes legislation that allows the states to do that.

"One of the points that the proponents have made about this bill is that it's truly voluntary. In fact, as of October of last year, 19 states entered into a voluntary compact. That's a two-edged sword. It is voluntary right now but there can be no enforcement of collection or an attempt to collect for out-of-state site sales unless and until the federal government passes legislation which mandates and makes it compulsory that states do this. And as a matter of fact, the sponsors of this bill, the US Senators from the State of North Dakota, have said from the very beginning that this is what they want to do because they want to allow states to do this.

"So, if you are in favor of raising our taxes more, if you are in favor of taxing the internet, if you are in favor of taxing out-of-state sales and creating a tremendous burden for businesses and for consumers, then support this bill. If you want to have equity and you want to have our state tax department collect what is due, then support legislation, which we have already entered into, which would allow the state to do that. And by the way, the state, under Mr. Kawafuchi, has been very successful in collecting hundreds of millions of dollars that heretofore had not been collected. But make sure you understand that this bill has do to with new forms of taxation and increasing sales and excise taxes because that will be the ultimate result of this so-called streamlining. It is not streamlining. It is more fleecing of the taxpayers. Thank you."

Senator Fukunaga rose in support of the measure was follows:

"Mr. President, I rise to speak in support of H.B. No. 2419, H.D. 1, S.D. 3, C.D. 1.

"Mr. President, this bill is not a bill to raise taxes. It is simply a bill to collect those taxes that are currently due and owing; and which the State of Hawaii cannot currently collect.

"What this bill actually does is authorize several initiatives that will substantially modernize the way Hawaii state taxes are assessed, collected, and administered. Part I of the measure establishes an integrated tax services and management special fund to receive revenues from tax revenue generating initiatives resulting from the state's new tax information management system and appropriations from the Legislature. The special fund will be used to pay for upgrades to the state's tax computer system called the integrated tax information management system or ITIMS. It will help the Department of Taxation administer its responsibilities to implement the county surcharge on state tax, and it will help the Department of Taxation administer its responsibilities to implement the streamlined sales and use tax.

"Part II of the measure adopts amendments to Hawaii's tax laws to implement the streamlined sales and use tax agreement once the state is certified by the governing board of the streamline sales tax project. Adoption of the streamlined amendments do not mean, that on January 1st, our tax system will suddenly change overnight. It means that the State of Hawaii then has specific compliance laws for the national streamlined sales tax Governing Board to review, and to use in determining whether or not our amended general excise tax and use tax statutes meet all of the requirements of the national streamlining effort.

"This process generally takes some time because, in the review process, a state may determine that it may have to modify its statutes still further to address a compliance issue or that it wants to structure its implementation timetable over a longer period of time. Each state is different and the key is to structure the compliance effort to take advantage of technology advances or other procedural enhancements that can further simplify tax revenue collecting operations.

"It is precisely because the Department of Taxation now has the opportunity to build a comprehensive system that H.B. No. 2419, C.D. 1, represents an integrated software planning tool. With its ITIMS software upgrades, the Department of Taxation can address not only improvements in its ability to collect state taxes more efficiently, but it can also plan for and incorporate long-term needs such as the implementation of Hawaii's mass transit county surcharge and streamline sales tax collections in its overall system design.

"For these reasons, I urge my colleagues to vote in support of this measure. Thank you."

Senator Slom rose in rebuttal and stated:

"Mr. President, just a brief rebuttal.

"Again, with all due respect to the previous speaker, there was nothing said about the compulsory nature of this legislation, which is the aim and the objective and the only way that it will take place, and we are adding additional taxing authority. We are not talking about streamlining the State Department of Taxation or allowing them further ways of getting tax compliance. We're not even talking about the use tax here. What we're talking about is a national compact which

would establish, as the previous speaker glossed over very quickly, a board – a board that will set tax rates for the 50 states; a board that will not be politically accountable or visible to anyone; a board that represents bad government, bad taxation policies, and bad economics.

“I’m very passionate about this because I think that very few people understand what’s going on here. But I’m telling you unequivocally – this is a tax increase; it is across the board; it is getting around the Quill US Supreme Court decision; it is getting around the congressional ban on internet taxation, and that is what the objective and the purpose is, otherwise it would not be compulsory. Thank you.”

Senators Kim, Tsutsui and English 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. 247-06 was adopted and H.B. No. 2419, H.D. 1, S.D. 3, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO TAXATION,” 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 (Hooser).

Conf. Com. Rep. No. 248-06 (H.B. No. 957, H.D. 1, S.D. 1, C.D. 1):

Senator Taniguchi moved that Conf. Com. Rep. No. 248-06 be adopted and H.B. No. 957, H.D. 1, S.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Inouye.

Senator Taniguchi rose in support and said:

“Mr. President, I have comments in support of this measure 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 rise to speak in favor of this measure.

“The conference draft before us today provides meaningful income tax relief in three ways.

“First, this legislation expands the state’s individual income tax brackets by 20 percent providing long-term relief for all taxpayers, especially our low and middle income wage earners. The rate adjustment reflected in this measure is expected to return approximately \$39 million to our residents.

“The second component of this measure increases the state’s standard deduction amounts to 40 percent of the federal standard deductions. This provision alone will benefit approximately 312,000 taxpayers who do not claim itemized deductions and eliminate approximately 10,500 taxpayers from income tax liability altogether. It is estimated that 53 percent of our taxpayers who claim a standard deduction amount will benefit from this proposal at a cost of approximately \$11 million.

“And finally, Mr. President, this measure provides a one-time income tax credit to assist flood victims who suffered damage caused by the Manoa flood in late October of 2004 and more recently the devastating statewide floods that occurred earlier this year. Claims are anticipated to total \$9.5 million.

“Again, Mr. President, this measure provides very ‘real’ and meaningful tax relief for our citizens. I urge my colleagues to

support passage of H.B. No. 957, C.D. 1. Thank you, Mr. President.”

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

“Mr. President, I’m rising to speak, coincidentally enough, in favor of this bill.

“It’s rather difficult. We have a rather large tax surplus because of the booming economy. I might enter into the record also the economic fact that a large part of the success of our economy is because of national tax cuts which have spawned economic growth across this country and here in Hawaii. Our economy has indeed been booming to the sum of over \$600 million and on the way to \$700 million worth of surplus for the coming fiscal year.

“This Legislature, in its wisdom, has spent most of the money – a lot of it well spent. Some of it, as we talked about in the budget debate the other day, is questionable, most especially the education bureaucratic abyss that consumes more and more money every year while producing the same poor results. Somewhere along the line I heard that it was a definition of insanity.

“This bill is going to allow for approximately \$50 million in tax relief for the hardworking people of Hawaii, and I do mean the hardworking people of Hawaii. The statistics are that the lowest 20 percentile of the wage earners of the State of Hawaii pay the highest proportion of their wages in taxes – unconscionable. I know there are many people in the Legislature that as politicians are quick to tell everybody how they really are working for the little guy, the working people of Hawaii, and how they really do watch out for the less fortunate in our society. How ironic that the policies of those Legislators that vote in favor of the spending and taxing, as the Senator from Hawaii Kai so accurately pointed out, tax the poorest amongst us the heaviest. We are a state that taxes people for being sick. We are a state that taxes people for being hungry, the very food they put on their table. We are one of the few states that has the working poor paying taxes.

“We could have been wise in our decision making and how we spent our money. In some areas we spent it and spent it well and in other areas maybe ask for accountability before we hand, for instance the Department of Education, another \$250 to \$300 million. We could have passed on to the working men and women of Hawaii a substantial tax relief. This is one of those difficult times for voting on legislation. A lot of times they say getting 50 percent of what you want in politics is a good deal – the half-a-loaf syndrome. Well, this isn’t even half a loaf.

“Therefore, it’s hard for me to vote in favor of this, but at this point I guess something’s better than nothing. But how unfortunate it is that we have missed the opportunity to do what the Governor of the State of Hawaii has advocated and what many wise people have requested, and that is to give our working people, especially the working poor, the genuine tax relief that they deserve rather than this token tax relief.

“I urge my colleagues to consider this, one cryptic editorial writer in a paper even likened this to an election year tax relief so some that espouse to be the great protectors of the little guy and the less fortunate in our society can go back to the voters this year and say hey, we gave you tax relief, when we’re really giving the poor crumbs.

“I will vote in favor of this because as I said some things are better than nothing, but how unfortunate it is that we missed the

opportunity to give some real relief to the people who need it the most. Thank you, Mr. President.”

Senator Slom rose in support with reservations and stated:

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

“Like the previous speaker, I have a very difficult time voting for something that we’re always told this is the first step or this is the beginning or be patient, this is just a little bit. At the start of this Legislative Session the number one priority, the number one issue, the focus was on tax relief, and why not? We were talking then of a \$500 million surplus, then it went to \$600 million, and now it’s approaching \$700 million. Where does the surplus come from? It comes from overtaxing our residents, our citizens, our taxpayers.

“We wonder day by day. We’ve spent so much time in this Session on the poor, on homelessness, on people that are in need. Why do you think they’re in need? Why do you think we’ve created more homeless? Because we tax so much, because we’re the second highest tax burdened state in the nation. There is a genuine and very clear nexus between the two and yet we continue to spend without regard for tax relief. It wasn’t until the last night possible that we really took this bill seriously.

“Mr. President, you talked about this at the beginning and that was laudable and you supported efforts. You’ve supported efforts for a couple years. We should have passed these measures a couple of years ago. I am disappointed, frankly, that the Governor started out asking for \$300 million in tax relief and then backed down to \$120 million and then what do we wind up with – with \$50 million. That’s outrageous. The people should be here with pitchforks and torches. They should be complaining, but they’re too numb because they’re facing a 12½ percent general excise tax increase January 1st which this Legislature allowed to happen and passed. They’re facing water hikes, electric hikes, sewer hikes, real property hikes. Yesterday the postal system announced that the 39 cents stamp which has been in effect for at least three months now will go to 42 cents because of the increases.

“We keep taxing and taxing and spending and we don’t give anything back to the public. We were bound by the constitution to return money to the public. We haven’t done that, not even \$1.00, not \$100, not those plate lunches that the House Speaker talked about but \$800 in plate lunches is a lot for a lot of families.

“We take their money before they get it and then we say it’s our money and we talk about revenue losses. It’s not revenue losses – it’s money that we’ve taken from our citizens and we put them at risk. The ones that are capable are moving away. The ones that are not are down at pier one or they’re at one of the other parks or recreational facilities. And we wonder why those numbers keep growing. We wonder why people are struggling even at two and two-and-a-half jobs.

“Our job is really to take care of the health and welfare of the people and you can’t take care of the health and welfare when you deny them the right to choose how to spend their own money. For those people that said early on, ‘I don’t want a tax refund, I don’t want a credit, I want it all to go to education’ – gees, they’re only getting \$2 billion, let’s give them more. Let’s not hold them accountable; let’s just give them more money. If people want to do that, that should be their right. If they want to squander it on 10 plate lunches, that should be their right. Or if they just want to simply be able to pay their

ever escalating bills, that should be their right too, but instead we take that away from them.

“The standard deduction we didn’t even do what the Governor indicated was a minimum level of increase and improvement. Yes, spreading out the tax rates on the rate schedule, the brackets, that is a help. That will be beneficial, but we treat this as our money and it’s not our money. It’s the people’s money and we have done a lousy job of taking care of it.

“And oh yes, one more thing, Mr. President, these tax reductions become effective in two years – two years. The tax increases and the spending increases, which we have passed this year become effective immediately. So we will pay and pay and pay and then we’ll come back here next year or the year after and wonder why more and more people are unable to take care of themselves in Hawaii our paradise.

“We’ve got to get our priorities straight and I certainly wish the people would not put up with this. They talk to us sheepishly and quietly and many of them have given up. They don’t have faith and confidence in us. They don’t have faith and confidence in government. They just feel it’s a fait accompli, that everything will be taken, that all they can do is scratch out a living as best they can or go to an underground economy.

“We can and should and must do better than that, but we’re not doing it with this bill. Thank you, Mr. President.”

Senator Espero rose in support as follows:

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

“There’s a lot of rhetoric being said today, Mr. President. There is a lot. But this measure, as our previous speaker said, it does increase the standard deduction. It benefits the residents of Hawaii. It does expand the tax brackets. That benefits the people of Hawaii. And of course it does provide some flood relief. That benefits the people of Hawaii on Oahu and the neighbor islands which were recently hit with a disaster.

“The question was posed, where did the \$600 million surplus go? And that’s a very good question because I have residents asking where did you spend that money? So let’s tell the people – 51 percent of the funds, over \$300 million, went to our Department of Education for whole school classroom renovations, for repair and maintenance, for operating our public schools which educate the children of Hawaii. So, did they benefit from the extra taxes that came in that we looked at appropriating? Yes they did. So the people of Hawaii did benefit. Thirteen percent went to health and human services programs to the tune of \$76 million; the University of Hawaii, which educates our students, our children, and even many adults – \$55 million or 9 percent of the budget; housing and homeless, one of the most difficult issues which we are dealing with today and in the future – \$50 million, 8 percent; tax cuts – \$50 million, 8 percent; an energy package worth \$30 million because we know the importance of dealing with this energy situation that has been highly charged with the gas cap, the high price of oil, how are we going to make Hawaii more self-sustaining in terms of energy in our future needs; we looked at that very closely; a disaster package – \$20 million; an agriculture package worth \$15 million or 3 percent. So this is where the money went. It didn’t go into any of our pockets.

“Our job, we represent 1.2 million people in the State of Hawaii. They elected us, and the Democratic Majority did put together a package which some of our colleagues on the Republican side, although they may not agree with it, but I

think by them supporting it whether with reservations does show yes, we didn't do what they wanted, we didn't do what the Governor wanted, but we believe we did what the people wanted. I polled many people in my district and the majority of them said invest the money in education. And we are investing over \$300 million of this surplus in education.

"This benefits the people, Mr. President, and I urge all my colleagues to support this measure. Thank you."

At 12:57 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:59 o'clock p.m.

Senator Hemmings rose in rebuttal and stated:

"Mr. President, I rise in rebuttal to the previous speaker.

"I appreciate his point of view but the facts speak otherwise. The people of Hawaii have been misled by the education status quo. We went over the figures when we discussed the budget, but 10 short years ago the operating budget for the Department of Education was approximately \$880 million. At the end of fiscal year '07 it will be \$2.4 billion. Enrollment has not gone up. If the mantra, which it has been, is 'give us more money and we do a better job,' and we got a better job, I would say to the previous speaker hooray, hooray. We invested 15 billion additional dollars in public education in the last 10 years and we've got results to show for it, but by every standard the results are poor. We continue to lag the nation and continue in every measure to be one of the worst states in the nation for educating our children.

"I heard the Chairman of the Education Committee say well that's because the public schools take the rejects. How sad. No child is a reject. Private schools do a good job. We should empower them. Chartered schools do a good job and public schools should be doing a good job with the money they get.

"Mr. President, we were led to believe at the beginning of this Session that we would have to spend a lot of money on repair and maintenance at the schools. When we got the actual numbers the day before the Opening Day, there were over \$570 million in the pipeline, 200 unaccounted for in repair and maintenance. Let me give you the figures on the last three years in education repair and maintenance: 2005, \$243 million; 2006, \$215 million; this budget, which is eating up a lot of the surplus that could have been given in tax relief to the poor, \$228 million. Are the schools fixed? No. We spend more and they get worse.

"Where is the accountability? When do we say this DOE status quo power block, this unholy alliance has delivered us one of the most expensive and least performing public education systems, one of the most bureaucratically top-heavy systems in the nation, and we can't give tax relief because we continue to throw good money after bad. This isn't rhetoric. This is the truth.

"I am going to stand up for improving schools, putting money in the classrooms where the teachers are. A young teacher starting in the public education system gets a little over \$30,000 a year. What was high on the priority of the DOE's list this year? Give a \$5,000 raise to the bureaucrats pushing paper around because they're only making \$110,000 a year. I got a letter from Hahaione Elementary School reinventing education, which was a good campaign slogan a couple of years ago, that it was cutting funding for their librarian because they didn't have enough money to make payroll. And we're supposed to be

okaying in the education budget increases for the bureaucrats while they're laying off librarians for the children.

"He mentioned the Majority Party Democrats. Please do – please do stand up this year and tell the people of Hawaii what you did for education, because what you did was throw more money at it with no substantive change in governance or accountability as was proposed by our good Governor several years ago. He gave them a campaign slogan. And what are we doing this year regarding reinventing education because it's such a dilemma for the schools? We're throwing \$20 million at it so they don't have to implement it without anyone asking the question, what happens next year when the same question comes up?

"So when the rhetorical question is asked, where do we want to cut spending? We want to hold the DOE accountable and put the money in the classrooms so we don't have to throw good money after bad and the money we do save can be given back to the poor parents who are struggling to make ends meet and sending their kids to public schools and not getting education their good children deserve and not giving the support to the teachers in the classroom they deserve because the money is being consumed by a status quo bureaucracy that's only interested in sustaining itself.

"Mr. President, the numbers speak louder than the rhetoric in this Senate and the numbers are overwhelming. The taxpayers have been extremely generous with education and not gotten what they paid for, and that's why this paltry tax relief, I would suggest if things go the same way, may even be rescinded before they even get it over the next two years. You want to talk about rhetoric? I want to ask the rhetorical question, why isn't the tax relief being given now, immediately? We have the money now. The good Senator from Hawaii Kai is exactly right. Can someone on the other side of the aisle tell me why our good working people have to wait two years for tax relief? I'll sit down and wait for the answer, Mr. President. Thank you."

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

"Mr. President, I rise in support of the measure with some comments in response to our previous speaker.

"The previous speaker mentioned Hahaione Elementary School, which was going to lose \$16,804, is going to end up gaining \$46,496. An answer in part to the rhetorical question, Hahaione School is being helped by money that's going to the department to this school as opposed to going somewhere else. I'm not going to be an apologist for the department. One reason why the schools have a \$525 million backlog is because in the tough times there wasn't tax revenue to do what we needed to do. People say fix the schools. In the past, DAGS and DOE had some challenges working with each other. The reform we passed places this burden with the department.

"I agree with the previous speaker that things can be improved, and let's work together to do that. Thank you, Mr. President."

Senator Ihara rose and said:

"Mr. President, can you please note my support of this bill with reservations."

The Chair so ordered.

The motion was put by the Chair and carried, Conf. Com. Rep. No. 248-06 was adopted and H.B. No. 957, H.D. 1, S.D. 1,

C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

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

The Senate reconvened at 1:51 o'clock p.m.

S.B. No. 2461, S.D. 1, H.D. 1, C.D. 2:

On motion by Senator Chun Oakland, seconded by Senator Baker and carried, S.B. No. 2461, S.D. 1, H.D. 1, C.D. 2, entitled: "A BILL FOR AN ACT RELATING TO GRANTS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, none. Excused, 4 (Hee, Ihara, Menor, Taniguchi).

S.B. No. 218, S.D. 4, H.D. 1, C.D. 2:

On motion by Senator Baker, seconded by Senator Tsutsui and carried, S.B. No. 218, S.D. 4, H.D. 1, C.D. 2, 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, 21. Noes, none. Excused, 4 (Hee, Ihara, Menor, Taniguchi).

S.B. No. 2006, S.D. 3, H.D. 2, C.D. 2:

On motion by Senator Kokubun, seconded by Senator Hanabusa and carried, S.B. No. 2006, S.D. 3, H.D. 2, C.D. 2, entitled: "A BILL FOR AN ACT PROHIBITING SALES OF OPIHI," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Ihara, Menor).

At 1:53 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 1:53 o'clock p.m.

FINAL READING

MATTER DEFERRED FROM TUESDAY, MAY 2, 2006

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, was deferred to the end of the calendar.

MISCELLANEOUS COMMUNICATION

Misc. Com. No. 7, from the Board of Trustees of the Hawaii Employer-Union Health Benefits Trust Fund, dated May 1, 2006, transmitting its Annual Report, prepared by Garner Consulting, was read by the Clerk and was placed on file.

SENATE RESOLUTIONS

The following resolutions (S.R. Nos. 164 to 169) were read by the Clerk and were disposed of as follows:

Senate Resolution

No. 164 "SENATE RESOLUTION AMENDING THE RULES OF THE SENATE OF THE TWENTY-THIRD LEGISLATURE OF THE STATE OF HAWAII TO PROVIDE ADDITIONAL TIME TO CONSIDER GUBERNATORIAL NOMINATIONS."

Offered by: Senators Hanabusa, Kokubun, Taniguchi, Kim, Sakamoto, Hee, Tsutsui.

Senator Hanabusa moved that Senate Rule 85(1) be suspended, seconded by Senator Hee.

Senator Hanabusa noted:

"Mr. President, in order for the Senate to consider a new Rule, we must have one day's notice and what I'm requesting here is a suspension of Rule 85(1) so that we may take up S.R. No. 164."

At 1:54 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 1:55 o'clock p.m.

The motion was put by the Chair and carried.

Senator Hanabusa moved that S.R. No. 164, be adopted, seconded by Senator Hee.

Senator Hanabusa rose and said:

"Mr. President, you and my colleagues are in receipt of a letter that I sent to the Governor raising a concern about the fact that the gubernatorial nominees are coming down on the 51st Day. In my letter I asked the Governor for her input. The Governor wrote on May 2nd stating that she had really no objection if we require that she provide nominees by the 41st Day.

"Mr. President, this resolution amends our Senate Rule 37, subpart 2, to require that we receive any governor's nominees to the Senate by the 41st Day. This then entails and will allow for the community to know and for people to participate in the process, because as it is now, we're in Conference by the 51st Day and we're scrambling for committee rooms, to get notices out and we're barely making it on time. I believe that the public is best served if we have a move in our Rules to the 41st Day.

"Thank you, Mr. President."

The motion was put by the Chair and carried, and S.R. No. 164, entitled: "SENATE RESOLUTION AMENDING THE RULES OF THE SENATE OF THE TWENTY-THIRD LEGISLATURE OF THE STATE OF HAWAII TO PROVIDE ADDITIONAL TIME TO CONSIDER GUBERNATORIAL NOMINATIONS," was adopted.

No. 165 "SENATE RESOLUTION STATING THE INTENT OF THE LEGISLATURE REGARDING THE EFFECTIVE DATE OF HOUSE BILL NO. 2043, HOUSE DRAFT 2, SENATE DRAFT 3, CONFERENCE DRAFT 1."

Offered by: Senator Chun Oakland.

On motion by Senator Hee, seconded by Senator Hogue and carried, S.R. No. 165 was adopted.

No. 166 "SENATE RESOLUTION REQUESTING THE CONTINUATION OF THE HIGH CORE PROGRAM FOR ALIENATED YOUTH."

Offered by: Senators Menor, Bunda.

On motion by Senator Hee, seconded by Senator Hogue and carried, S.R. No. 166 was adopted.

No. 167 "SENATE RESOLUTION AMENDING THE SENATE RULES RELATING TO ETHICS."

Offered by: Senator Bunda.

By unanimous consent, action on S.R. No. 167 was deferred.

No. 168 "SENATE RESOLUTION AMENDING THE SENATE RULES RELATING TO INTERNSHIPS."

Offered by: Senator Bunda.

By unanimous consent, action on S.R. No. 168 was deferred.

No. 169 "SENATE RESOLUTION AMENDING THE SENATE RULES RELATING TO FUNDRAISERS."

Offered by: Senator Bunda.

By unanimous consent, action on S.R. No. 169 was deferred.

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 864 to 868) were read by the Clerk and were placed on file:

Hse. Com. No. 864, returning S.C.R. No. 84, which was adopted by the House of Representatives on May 2, 2006.

Hse. Com. No. 865, returning S.C.R. No. 91, S.D. 1, which was adopted by the House of Representatives on May 2, 2006.

Hse. Com. No. 866, returning S.C.R. No. 105, which was adopted by the House of Representatives on May 2, 2006.

Hse. Com. No. 867, returning S.C.R. No. 172, S.D. 1, which was adopted by the House of Representatives on May 2, 2006.

Hse. Com. No. 868, returning S.C.R. No. 104, which was adopted by the House of Representatives on May 2, 2006.

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

The Senate reconvened at 2:55 o'clock p.m.

FINAL READING

MATTERS DEFERRED FROM EARLIER ON THE CALENDAR

Conf. Com. Rep. No. 208-06 (H.B. No. 3056, H.D. 2, S.D. 2, C.D. 1):

Senator Kokubun moved that Conf. Com. Rep. No. 208-06 be adopted and H.B. No. 3056, H.D. 2, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Slom.

Senator Ige rose in opposition to the measure and said:

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

"Kawai Nui Marsh is a 746-acre wetland located between the Koolau Mountains and Kailua Bay. It is the largest freshwater marsh in the Hawaiian Islands. Between the marsh and the bay lies a large portion of the community of Kailua where hundreds of families have made their homes for more than 40 years. On most days, Kawai Nui is a quiet serene sanctuary for many endangered species and plants, but on January 1st, 1988, it became a nightmare. A winter storm drenched the Windward side and rainwater overwhelmed the marsh. Hundreds of homes in Kailua were destroyed when floodwaters reaching five to six feet deep inundated private residences, businesses and personal property. The devastation and destruction was tragic and it was clear that the job to maintain and manage the marsh was bigger than the City and County of Honolulu, who owned the marsh. Everyone would have to step outside of their comfort zone to develop and implement a comprehensive plan to repair, maintain and restore the marsh and minimize the risk to the surrounding communities.

"After much discussion and negotiations and encouragement from elected officials, the City and County of Honolulu and the State of Hawaii reached a mutual agreement on how to best manage the marsh. The Legislature endorsed this agreement in Act 314 of 1990. That mutual agreement between the city and the state designated that the city would commit to complete all of the flood control projects that the US Army Corps of Engineers had identified to mitigate the flood exposure of the marsh. They would also transfer the marsh and the levy system to the state in fee title. The state agreed to develop the marsh and establish it as a wildlife sanctuary in recognition of its important contributions to the environment as a natural resource.

"In 1998, once again the Legislature endorsed a mutual agreement between the city and the state to adjust that agreement. The city and DLNR officials agreed to provide a buffer area to maintain the levy. In addition, the city agreed to retaining the Kaelepulu Drainage Channel and the state accepted ownership of Oneawa Channel. Once again this was a mutual agreement between the city and the state.

"Through agreement and shared ownership and stewardship, the city and state have addressed many of the safety needs and concerns of the residents living closest to Kawai Nui Marsh. Today, the city has completed all of the flood control projects that it committed to back in 1990 and has forwarded documents to the state to transfer ownership of the marsh to the state as agreed to back in 1990 and reaffirmed in 1998.

"I oppose H.B. No. 3056, C.D. 1, for a number of reasons. Foremost amongst them is that this is not a mutual agreement. C.D. 1 represents the state's plan for managing the marsh. The city and county has voiced their objections to that agreement. Mr. President, I would like to have inserted into the Journal a memo from the city and county stating their opposition to C.D. 1. (The chair so ordered.) But what are the problems with C.D. 1, members? First and foremost, it is a unilateral agreement of the state. It represents no discussion or conversation with the City and County of Honolulu. Next, it changes the boundaries of the agreement. It changes what was agreed to be transferred in a way that clearly the state had embraced in 1990 and then reaffirmed in 1998. And probably the worst part of this measure, the thing that I oppose the most, is that it puts in jeopardy the people of Kailua.

"Conference draft one states, 'Nothing in this Act requires the state to maintain any flood control program relating to Kawai Nui Marsh.' Members, flood control activities within the marsh is the single most important activity that we can do to

ensure the safety of the citizens of Kailua. Clearly the levy is the absolute last resort protection for that community to prevent them from being inundated once again like they were on New Year's Day in 1988.

"Mr. President, in our business our word and our commitment is oftentimes our most valuable assets. Sixteen years ago we all – the city, the state, the Legislature – made a commitment to the citizens of Kailua to a comprehensive collaborative plan to repair, maintain, and restore Kawai Nui Marsh. Eight years ago, we all once again reaffirmed our commitment – the city, the state, and the Legislature – to protecting the people of Kailua. This measure before us trashes that commitment. I, for one, will not break my commitment and turn my back on the people of Kailua and I will be voting 'no' on this measure and I urge all of you to do the same.

"Thank you."

The Chair having so ordered, the memo from the City and County of Honolulu is identified as ATTACHMENT "A" to the Journal of this day.

The motion was put by the Chair and failed to carry, Conf. Com. Rep. No. 208-06 failed to be adopted 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," having been read throughout, failed to pass Final Reading on the following showing of Ayes and Noes:

Ayes, 6. Noes, 19 (Baker, Chun Oakland, English, Espero, Fukunaga, Hanabusa, Hee, Hooser, Ige, Ihara, Inouye, Kanno, Kim, Menor, Nishihara, Sakamoto, Taniguchi, Trimble, Tsutsui).

Conf. Com. Rep. No. 238-06 (S.B. No. 2546, S.D. 1, H.D. 2, C.D. 1):

By unanimous consent, 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," were recommitted to the Committee on Conference.

Conf. Com. Rep. No. 237-06 (S.B. No. 2956, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Sakamoto, seconded by Senator Hee and carried, Conf. Com. Rep. No. 237-06 was adopted and S.B. No. 2956, S.D. 2, H.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.

SENATE RESOLUTIONS

The following resolutions (S.R. Nos. 170 to 175) were read by the Clerk and were disposed of as follows:

Senate Resolution

No. 170 "SENATE RESOLUTION RETURNING ALL BILLS, CONCURRENT RESOLUTIONS, AND RESOLUTIONS TO THE CLERK'S DESK."

Offered by: Senators Hanabusa, Hemmings.

At 3:04 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 3:07 o'clock p.m.

On motion by Senator Hee, seconded by Senator Hogue and carried, S.R. No. 170 was adopted.

No. 171 "SENATE RESOLUTION AUTHORIZING THE PRESIDENT TO APPROVE THE JOURNAL OF THIS SENATE FOR THE SIXTIETH DAY."

Offered by: Senators Hanabusa, Hemmings.

On motion by Senator Hee, seconded by Senator Hogue and carried, S.R. No. 171 was adopted.

No. 172 "SENATE RESOLUTION RELATING TO THE PRINTING OF THE JOURNAL OF THE SENATE."

Offered by: Senators Hanabusa, Hemmings.

On motion by Senator Hee, seconded by Senator Hogue and carried, S.R. No. 172 was adopted.

No. 173 "SENATE RESOLUTION AUTHORIZING THE PRESIDENT TO DESIGNATE THE EMPLOYEES WHO WILL WORK AFTER ADJOURNMENT."

Offered by: Senators Hanabusa, Hemmings.

On motion by Senator Hee, seconded by Senator Hogue and carried, S.R. No. 173 was adopted.

No. 174 "SENATE RESOLUTION REGARDING COMPLETION OF THE WORK OF THE TWENTY-THIRD LEGISLATURE SUBSEQUENT TO THE ADJOURNMENT THEREOF."

Offered by: Senators Hanabusa, Hemmings.

On motion by Senator Hee, seconded by Senator Hogue and carried, S.R. No. 174 was adopted.

No. 175 "SENATE RESOLUTION INFORMING THE HOUSE AND GOVERNOR THAT THE SENATE IS READY TO ADJOURN SINE DIE."

Offered by: Senators Hanabusa, Hemmings.

On motion by Senator Hee, seconded by Senator Hogue and carried, S.R. No. 175 was adopted.

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

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

"Colleagues, on your desks is a resolution of thanks from the American Cancer Society for being the first Body in the Nation to adopt a resolution, which we did early in this Session, supporting the 2015 initiative to ensure that we will, as a state, work towards a reduction in cancer's morbidity and mortality.

"On a personal note, I'd just like to thank all of my colleagues for the outstanding Session that we concluded in the area of health. The two smoking measures that we passed are clearly landmark legislation in terms of helping to reduce the affects of second-hand smoke and to be a deterrent for people who have not started to smoke as well as an incentive for people who are trying to quit.

"We passed a number of other very important measures in the area of health and human services and I just want to thank

all of my colleagues here for their support and assistance throughout this Session. Thank you, Mr. President.”

At this time, President Bunda delivered his closing remarks as follows:

“As we near the end of the Session, I’m reminded of a line from my Opening Day speech – I said that we were capable of resolving even the most persistent of problems if we set aside politics and simply strive to do the right thing for the right reasons. Colleagues, on most issues this Session, we did just that and I would like to thank all of you for your role in making this Session one of the most productive in memory.

“On one hand the budget surplus made it easier for us to meet the basic requirements of a solid financial plan, and on the other, it made the process that much harder. As we all know, expectations grow proportionately with the size of the pie and this year the pie was substantial and everyone – everyone – wanted a piece of that pie. Our job, therefore, was to prioritize the needs of the state as a whole.

“Education, of course was our top priority. We allocated funds for overdue repair and maintenance and ensured that the academic needs of our students are adequately provided for. We continue to do work on one of the state’s most persistent and nagging issues – these are affordable housing, setting aside monies for the homeless, as well as for the rental housing trust fund. While the energy focus was on the gas cap, we also tackled the more critical and long-term challenge of reducing our dependence on oil.

“Perhaps one of the most important accomplishments of this Session was tax reform. For the first time in 20 years we adjusted tax brackets and raised the standard deduction that will provide \$50 million of tax relief to our working poor and middleclass. It is my hope that we can continue to lower the cost of living by further adjustments to our tax structure. We need more tax breaks for the men and women in the middle who fund the bulk of government services. We have taken an important step toward meaningful tax reform this Session. Although it is a move in the right direction, it is certainly not the end of the line for tax reform.

“I want to express my gratitude to all of you who worked hard to ensure that we stayed on course. I would like to also thank our colleagues in the House for their cooperative efforts in achieving our goals, especially the Speaker of the House to whom I owe a debt of gratitude. I want to acknowledge, too, the contributions of our loyal opposition in the Senate under the Minority Leadership. The Minority members were an integral part of a bipartisan effort to achieve what was in the best interest of the public.

“I’m sure we did not accomplish all that we hoped to do, but we set the bar high and had high expectations for this Session. I believe we can be proud of our list of accomplishments. When all is said and done, I believe it can be said that we in fact did the right things for the right reasons.

“Again, thanks to all and I look forward to working with all of you next Legislative Session. Aloha and mahalo.”

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

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

“Mr. President and colleagues, I would like to express my appreciation to my colleagues here in the Senate. I have decided with the counsel of my family – that I will not run for

reelection this fall. I will be leaving the Senate at the end of my term after serving for 14 years.

“After much deliberation with my wife, the decision I made was about putting my family first. The kids are growing up too quickly and with the passing of my father, Toshio Kanno, and my wife’s mother, Clodagh Ah Tou, I came to realize how short life really is. My children lost two of their grandparents within a 2-year period. Just a note about my dad – he was my role model. He worked his whole life as an electrician. He was a proud union member of the International Brotherhood of Electrical Workers – Local 1186 and I learned from him the value of labor unions and their role in advocating for the rights of all working men and women. We all are the beneficiaries.

“I want to acknowledge and thank the voters that elected me to office. Together with a capable staff, we worked hard to do our best representing our district. Mahalo to the residents that I currently represent in Kapolei, Makakilo, Honokai Hale/Nanakai Gardens, Ko Olina, Kalaeloa, Village Park, Royal Kunia and Waikele. And a mahalo to the residents that I represented for 10 years before reapportionment in Ewa, Ewa Beach, West Loch and Lower Waipahu. Mahalo to those who went above and beyond to help me; a special thank you to Maeda Timson, Jane Ross, Martha Makaiwi, Dee White, Mike Dias, Aunty Arline, Eaton, Roy Wickramaratna and Goro Arakawa.

“While in the Senate, I have chaired and co-chaired a number of committees, including Agriculture, Consumer Protection, Judiciary and Labor. Much of my time here has been spent advocating for working people, like my father and Grandma Clodagh. In our island’s unique history, Hawaii’s sugar and pineapple plantations were followed by a tradition of protections guaranteed in our law for Hawaii’s working people. When our economy was struggling, the business community was urging the Legislature to reduce the cost of doing business. Their concerns were accommodated but we also realized that we could not sacrifice the protections in our laws for working people. Now that the economy is strong, the business community is back again still urging the Legislature to reduce the cost of doing business. We try to help businesses at the same time keeping in mind our obligation to ensure that workers are not sacrificed and hurt by our actions. To this end, on Tuesday, Senate Bill 2190 was passed by the Senate and the House that provides over \$100 million in savings in unemployment insurance for Hawaii’s businesses.

“There are a number of people that I need to acknowledge and thank. I have been blessed with an amazing office manager, Jan Lehner. She’s been by my side for eight years with a dedication and commitment that is unrivaled. In the most stressful of situations, Jan is able to put on a smile. When an angry constituent is on the phone, and Jan has to tell them some bad news, you know what, they tell her ‘thank you!’ and they mean it. When faced with unbearable stress, Jan likes to say, ‘make like a duck, and have it go right off your back.’ She knows the workings of the Legislature just as much as anyone here. I can’t thank her enough for all that she has done for me and our community throughout these years. I have had outstanding staff, through the years, including Sharon Alvarado, and the staff this year: Trina Ishii, Isaac Goya and Haruki Fukumitsu. In the gallery, and I’d like to ask them to stand, are members of our staff. We have Jan Lehner, Trina Ishii and Isaac Goya. (Jan, Trina and Isaac rose to be recognized.) Seated with them is my wife, Lorrie, and my oldest daughter Keolanui. If they could please rise. (Mrs. Kanno and Keolanui rose to be recognized.)

“My family has been with me through it all. There is nothing that I can say to adequately recognize how important my wife,

Lorrie, is to me. When the going gets tough, it's great knowing that she's behind me 110 percent. In addition to being an incredible wife and mother, she works everyday in the Waipahu community with families living at the breaking point. She keeps me real and in touch with the needs of families who are economically challenged as well as those working single parent families who are struggling to make ends meet. My children, Keolanui, Kaulana and Kala'i, have helped me to remember what's important. They will be the first to tell you, 'ohana is most important. My mother, Kay Kanno, is an amazing woman. She was there when I first ran for office and has been working hard to help me for 14 years. You all know how important family is; they remind you where you came from and why you ran for office in the first place.

"To you, my colleagues and supporters, I say thank you. You allowed me to reach for my potential and enjoy the work that was rewarding, challenging and fulfilling. Mahalo and a hui hou."

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

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

"Colleagues, Mr. President, it has indeed been an interesting and we believe a productive Session. On this side of the aisle it's oftentimes difficult to see victory because of the makeup of this Legislative Body. It's difficult sometimes to claim victory when all we see is partisan votes and initiatives that we believe in with our hearts go down not because of the merit of the issue but because of the label of the political party proposing them. I'm here today to declare victory not only for our perspective but for your perspective, but most importantly from the perspective of the people of Hawaii.

"Looking back over this Session, yes we have done some things that we have not done before. In the area of energy, after years and years and years we've recognized that for too long we've given free reign to a monopoly public utility that has our electrical rates 150 percent above the national average – 8 cents a kilowatt hour on the average on the mainland, 20 cents here. This Legislature in a bipartisan manner with the leadership of the Governor all agreed on an energy package. Unfortunately, we did not get what we all wanted. Part of it could be attributed to the embedded lobbyist high-paid executives working in Legislator's offices that water down the legislation. But I will tell you that the PUC, who much of the authority has been delegated to, is not in control of the special interest anymore. With the Governor's appointees, they will do what's right for the energy consumers of Hawaii.

"This state, more than any other state, is capable of being energy independent. This Legislature in its wisdom with bipartisan support invested money in hydrogen development. Someday within our lifetime we will be driving hydrogen fueled cars produced by renewable energy in the State of Hawaii. We can lead the world in this effort freeing us from the geopolitical ties to Mideast oil and freeing us from the pollution of fossil fuel burning energy.

"We can claim victory on crime, and I want to look right across the aisle to the Chair of the Judiciary Committee and thank her personally for doing what's right and not what is politically expedient. Under your leadership, Chairman, of the Judiciary Committee, we did pass a meaningful three-strikes and you're in jail law that is going to take violent criminals off the street. And in spite of the debates, it's going to save lives and it's going to save money and it's eventually going to reduce the number of people in prisons because criminals will not take the risk of doing the crime. Thank you, Madame Chairman.

"Thank you also for our wiretap law. We all can declare victory that now our laws are going to be in compliance with federal standards so that we can use evidence and put criminals in jail that the federal government has so assiduously pursued. Criminals that are profiteering at selling drugs are no longer going to get a free card to get out of jail because our wire tap laws did not conform with federal laws.

"We, in a bipartisan effort, once again with the help of the Governor can claim victory on housing initiatives. They're going to make it easier to build affordable housing in a very, very difficult market.

"We can declare victory on health initiatives. I want to add my thank you to the Chairman of the Health Committee for relentless efforts to stop the most insidious self-induced disease there is – cancer caused by smoking. We appreciate the victories for the people of this state. Even those who smoke, like a gentleman who called me with a wheezing voice saying he doesn't want to smoke but he will nevertheless continue.

"The gas cap, a victory for the consumers and a victory for what we know is free enterprise where the consumer is a regulator of the economy, not politicians.

"Yes, there are indeed some things we have to really look at. Tax relief was not what it should have been. I will say that if we did nothing else for public education this Session, the public has become aware that we have been very generous with public education, and someday we're going to ask for accountability for the money we've thrown at it.

"We did not provide malpractice insurance. There are going to be people that are going to be in emergency situations that are going to be going to emergency rooms and the doctor is not going to be there. And trust me, the lawyers who have made millions at this crisis aren't going to be there either.

"The business environment – it's a very interesting perspective and maybe that's the difference we have in political labels. There is a problem there and we have to come back next year and address some of the situations. Workers' comp insurance rates continue to plague businesses. The unemployment insurance bill we passed this year was not reform. Over the long haul, businesses are going to pay more.

"I just want to introduce into the record, Mr. President and colleagues, that the blue collar laborers are not being served well either by what we're doing. They're suffering in a bad economy. Their companies do not have enough money for pay raises. They do not have enough money for the fringe benefits and the other benefits, and if we all work together in a nonpartisan manner to start addressing some of the problems, I think we can serve everybody's interest, business and labor together.

"In closing, Mr. President and colleagues, I want to also thank you and your leadership and your team. This forum functioned well this year. It functioned as a democracy. There were no longer motions from the Floor to close debate because one interest group or another did not want to hear open and free debate on the issues. What's really wonderful is there were several times this year when decisions were made on this Floor and not in caucus rooms based on the merit of the issue and the temper of the debate. That is healthy, wonderful democracy and for that we can be very proud.

"So as we all leave this Session with different perspectives on it, I would like to leave the Majority Party colleagues a note of thank you for allowing us to participate in the process. From

our perspective, there's lots to be done but we're on the way. I'm hoping that we, the Minority, can learn to work with you constructively where we can and get the respect for not doing so where it is warranted.

"Thank you, Mr. President, and thank you, colleagues."

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

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

"I just wanted to tell my colleagues I want to say thank you and mahalo for putting up with me. I'm proud to be part of this Senate and to have the debates that we had and of the fact that we brought a lot of issues to the public and we didn't have any straw men or straw women. We had the best arguments possible on the issues. We could agree to disagree and yet come back the next day and still be friends and still discuss other issues. We had some very strange bedfellows from time to time, very strange votes, and that's the nature of the process.

"Mr. President, I want to thank you. I want to thank you for your remarks today and also for your leadership. Senator Kanno, I want to thank you for your 14 years of leadership, and as the person who sat next to you more than anyone else, I want to tell you I'm ready to assume the Chairmanship of the Labor Committee. (Laughter.) Yes, we'll go in a different direction, Senator Kanno, but you'll be free to testify.

"And finally, it wouldn't be the end of the Session unless I add to the accolades that were given to the Judiciary Chairwoman who also is the Majority Leader and who also today is celebrating a very special occasion. Many of us can remember a long, long, long, long, long time ago in a place far, far away near a landfill (laughter) a little girl was born. She didn't wear little dresses and pink and all. She was born in swaddling black and grew up in black. (Laughter.) I believe she was born in the year of the dog and that's why she became the pit-bull that we all know and love. (More laughter.) She's a lawyer, but I respect her. She's a liberal and I respect her. She's a labor attorney and I still respect her. And she's a wonderful radio personality with a wonderful partner and I sure do respect her. We wouldn't have the same kinds of debate and argument and the same kinds of legislation that ultimately help the people without Colleen Hanabusa. So it's my wish that we all wish her a very happy birthday and wish her best wishes for the future, and to the rest of my colleagues, the very same wish. Aloha and thank you."

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

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

"I had not planned to speak here but I'm making a big step in my life and I want to say thank you to all of you for your kindnesses and friendships over my two terms here in the State Senate. I'm going to remember quite a few things that have happened here over the past six years, certainly the great speech making of Senator Sam Slom, the quirky speech making of Senator Gordon Trimble, the sweetness of Suzie Chun Oakland, the thoughtfulness of Les Ihara, the great friendship with Norman Sakamoto, the tough toughness of Donna Mercado Kim, and the very, very kind words that I always got from you, Mr. President, Bobby Bunda. If I didn't mention you by name, you're probably running for Congress against me and I don't want to end up in your literature. (Laughter.)

"I will tell you all that I appreciate very much the opportunity to work with you. You're all great people and I know that you're very well intended even though we don't agree with each other from time to time. So, keep that smile on

your face and please just one more time – put your hands together for yourselves because you've all done a great job. Thank you very, very much. Thank you, Mr. President."

Senator Sakamoto requested his 2006 Legislative Accomplishments for the Committee on Education and Military Affairs be inserted into the Journal. The Chair having so ordered, Senator Sakamoto's insert is identified as ATTACHMENT "B" to the Journal of this day.

At 3:31 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 3:43 o'clock p.m.

ADJOURNMENT

Senator Baker moved that the Senate of the Twenty-Third Legislature of the State of Hawaii, Regular Session of 2006, adjourn Sine Die, seconded by Senator Hogue and carried.

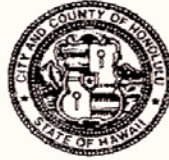
At 3:44 o'clock p.m., the President rapped his gavel and declared the Senate of the Twenty-Third Legislature of the State of Hawaii, Regular Session of 2006, adjourned Sine Die.

Respectfully submitted,

Clerk of the Senate

Approved:

President of the Senate

ATTACHMENT "A"DEPARTMENT OF FACILITY MAINTENANCE
CITY AND COUNTY OF HONOLULU1000 Uluohia Street, Suite 215, Kapolei, Hawaii 96707
Phone: (808) 692-5054 • Fax: (808) 692-5857
Website: www.honolulu.govMUFI HANNEMANN
MAYORLAVERNE HIGA, P.E.
DIRECTOR AND CHIEF ENGINEERGEORGE "KEEKI" MIYAMOTO
DEPUTY DIRECTOR

IN REPLY REFER TO:

May 1, 2006

The Honorable Robert Bunda
President
State Senate
State Capitol
Honolulu, Hawaii 96813

The Honorable Calvin K.Y. Say
Speaker
House of Representatives
State Capitol
Honolulu, Hawaii 96813

Dear President Bunda and Speaker Say:

I am writing to convey the City's strong objections to H.B. 3056 C.D. 1, Relating to Kawai Nui Marsh. By this bill, the State completely retreats from its obligations and commitment to comprehensively manage the entire Marsh, including the levee and Oneawa Canal, in perpetuity. Without foresight or fairness, this bill allows the State to use and control the wetlands, but requires the City to maintain the flood control improvements that are a part of, and serve, the Marsh. This bill imposes an unfair burden upon the City and subjects the Marsh to fragmented ownership and conflicting interests, all for no better reason than that the State simply changed its mind.

Sixteen years ago, the Legislature envisioned and decreed that the entire Marsh, including the flood control improvements, would be comprehensively managed and preserved by the State. Eight years ago, the State reaffirmed its commitment to accept and maintain the flood control improvements. Now, with the transfer finally ready to be consummated, the State refuses to execute the conveyance and seeks to have the Legislature redo the deal. In a complete reversal of existing law, H.B. 3056 C.D.1 would divide the Marsh so that the State may have immediate use of the wetlands for its present purposes, while forcing the City to permanently bear all responsibility for the related flood control improvements.

The Honorable Robert Bunda
The Honorable Calvin K.Y. Say
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There is no justification for the State to break its earlier promise. There has been no change in circumstances. As the City has attempted to explain, the State's claims about resources and legal responsibility are not supported. And the State's purported concerns about establishing a precedent are misplaced: a far stronger precedent is set by breaking a long-standing promise than by honoring it. Standing Committee Report 380-98, which reflects the legislative history of the current law, states, "your Committee has amended this bill to reflect a subsequent verbal agreement between the DLNR and the City to further define the boundary . . . *in order to provide the State with a buffer zone to maintain the toe and slope of the levee.* In return for the City retaining the Kaelepulu Drainage Channel, the *DLNR will accept ownership of the Oneawa Canal.*" (Emphasis added). The legislative history also reflects that DLNR testified in support of this clarification.

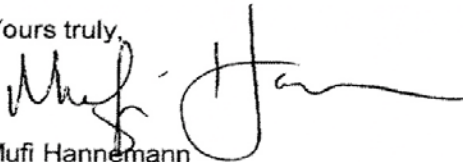
The City has done everything it promised to do, and everything that the law requires, for the conveyance to take place as mandated. The City has accepted responsibility for Kaelepulu Channel. It has completed the improvements to the levee with the Army Corps of Engineers. It subdivided the Marsh to reflect the agreed upon boundaries and to exclude areas that the State did not want to accept. And it has prepared the required conveyance documents at considerable time and expense. The City has also ensured that both the U.S. Fish and Wildlife Service and the U.S. Army Corps of Engineers are prepared to work with the State as the local sponsor of their respective projects. The State has never asked the City to do anything more to effectuate the conveyance.

Also, in a Memorandum of Agreement between the City Department of Environmental Services and the State Department of Land and Natural Resources (DLNR) dated January 15, 2002, the City agreed to provide the DLNR use of about one-half acre of City owned land for its Kawai Nui Marsh Maintenance Yard which will allow the State to more actively participate in the management of flood control facilities and the natural resources of Kawai Nui Marsh. Again, we see no justification for the State to break its earlier promise.

We are at a loss to understand how the State's commitment, which this Legislature gave the force and effect of law for the benefit and assurance of the public, can be so easily and capriciously rescinded. We urge you and your members to vote against H.B. 3056 C.D. 1.

With warm regards and aloha,

Yours truly,



Mufi Hannemann
Mayor

ATTACHMENT "B"

<p><u>FACILITIES/REPAIR & MAINTENANCE</u></p> <p>SB2956 SD2 HD2 CD1 DOE; Fix Hawaii's Schools; \$275,000,000 (Act 246)</p> <p>SB2708 SD2 HD1 CD1 Impact Fee; \$25,000 (Act 315)</p> <p>SB2704 SD2 HD1 CD1 Repeat School-Level Task Force Minor Repairs, Accounts and Reports (Act 245)</p> <p>HB1891 HD2 SD2 CD1 State Educational Facilities Improvement Special Fund, Increase Deposit to \$90,000,000 (Act 304)</p> <p>HB2210 SD1 Pearlridge Elementary School Cafeteria Renovation (Act 53)</p> <p><u>SPRBs</u></p> <p>HB2713 HD1 Kawaihae School (Act 114)</p> <p>HB2987 HD1 SD1 Saint Louis School (Act 113)</p>	<p>Further Information</p> <p>Please visit the following website: http://www.capitol.hawaii.gov/ and go to bill status and documents; the bill information can be obtained.</p> <p>Senator Norman Sakamoto Chair, Senate Committee on Education & Military Affairs Phone: 586-8585 Fax: 586-8588 Email: sensakamoto@capitol.hawaii.gov</p>	<p><u>MILITARY</u></p> <p>HB1879 HD1 SD1 CD1 Veterans' Newsletter; \$50,000 (Act 121)</p> <p>HB1809 HD2 SD2 CD1 Renewal of Driver's License within 90 days of Return (Act 221)</p> <p>HB2457 HD1 SD1 CD1 Clarifies Military Presence as a state concern (Act 65)</p> <p>SB1648 SD1 HD2 CD1 Tuition Waivers for National Guard and Reserves (Act 188)</p> <p>HB173 HD1 SD1 Requires TAG and DAG to serve at least five years in the Hawaii National Guard (VETOED- GM 331)</p>
<p><u>TEACHERS</u></p> <p>SB3195 SD2 HD2 CD1 Teacher Shortage; \$150,000 (Act 272)</p> <p>SB3197 SD2 HD1 CD1 Substitute Teachers; Wage Increases; Compensation; \$800,000 (\$125/\$136/\$147) (Act 263)</p> <p>SB2887 SD1 HD1 CD1 Hawaii Teachers Standard Board; Alternative Criteria (Act 226)</p> <p>HB1862 HD 2 SD2 CD1 Hiring Retired Teachers as Mentors (Act 286)</p>	<p><u>STUDENTS</u></p> <p>SB3059 SD2 HD1 CD1 Model Statewide Curriculum; \$2,008,000 (Act 301)</p> <p>SB2505 SD2 HD1 CD1 School-Based Substance Abuse Program; \$1,817,500 (Act 268)</p> <p>SB3373 SD2 HD2 CD1 Substance Abuse</p> <ul style="list-style-type: none"> • Certified Substance Abuse Counselors • Maintains DOE zero-tolerance drug policy while offering offending students more lenient punishment to encourage substance abuse assessment and treatment (Act 205) <p>SB2980 SD2 HD1 CD1 High Schools; Construction Academy; \$ (Act 234)</p> <p>HB1900 HD1 SD1 CD1: State Budget Construction Academy; \$5,402,182 (Act 160)</p>	<p><u>ADMINISTRATION</u></p> <p>HB2961 HD1 SD1 CD1 Federal Revenue Maximization Revolving Fund (Act 244)</p> <p>SB2720 SD2 HD1 CD1 Employee Transfers; Act 51 (Act 225)</p> <p>HB1865 HD1 SD2 CD1 DOE Operations; Chief Financial Officer and Assistant; \$115,000; \$43,000 (Act 151)</p> <p>HB1861 SD1 CD1 Repeals annual report requirement for Superintendent (Act 126)</p> <p>HB1866 HD2 SD2 CD1 Repeal Sunset Date of Act 321 (Act 161)</p> <p>HB1900 HD1 SD1 CD1: State Budget Weighted Student Formula; \$20,000,000 & \$1,000,000</p> <ul style="list-style-type: none"> • Calendar Transition; \$24,380,143 • Science Textbooks; \$2,000,000 • Information Technology/HR Systems; \$5,450,280 • Electricity Emergency Appropriation; \$13,128,901 • Transportation Emergency Appropriation; \$9,438,615 (Act 160)
<p><u>CHARTER SCHOOLS</u></p> <p>SB2719 SD2 HD1 CD1 Charter Schools Omnibus;</p> <ul style="list-style-type: none"> • Review Committee • Expand opportunity for new start-ups for each existing start-up that gets accreditation (Act 298) <p>HB1900 HD1 SD1 CD1: State Budget Per-Pupil Allocation; \$11,816,178 Charter School Facilities; \$3,174,000 (Act 160)</p>	<p>*Bill was not heard in EDM but in HMS/IGA.</p>	
<p><u>PARENT / COMMUNITY</u></p> <p>*SB486 SD2 HD1 CD1 Non-School Hours Programs; \$400,000 (HMS/JGA) (Act 281)</p> <p><u>LEARNING</u></p> <p>SB3101 SD2 HD2 CD1 Early Childhood Education; \$1.5 million (Act 259)</p>	<p>Education & Military Affairs Committee (EDM)</p> <p>2006 Legislative Accomplishments (Updated 7/14/06)</p>	
<p>1</p> <p>HB1900 HD1 SD1 CD1: State Budget There is a total of \$107,000,000 in operating funds including:</p> <ul style="list-style-type: none"> \$175,000 for PSAT Tests \$500,000 for Advanced Placement Classes Learning \$1,100,000 for English as a Second Language Comprehensive Student Support System (Act 160) 		
<p>7/14/2006</p>		

<p>Education & Military Affairs Committee (EDM)</p> <p>Measures Passed</p> <p>2006 Legislative Session</p>	<p><u>FACILITIES/REPAIR & MAINTENANCE</u></p> <p>SB2956 SD2 HD 2 CD1 DOE; Fix Hawaii's Schools; \$275,000,000</p> <p>SB2708 SD2 HD1 CD1 Impact Fee; \$25,000</p> <p>SB2704 SD2 HD1 Repeal School-Level Task Force Minor Repairs, Accounts and Reports</p> <p>HB1891 HD2 SD1 CD1 State Facilities Improvement Special Fund; Increase Deposit to \$90,000,000</p> <p>HB2210 SD1 Pearlridge Elementary School Cafeteria Renovation (Act 53)</p> <p><u>SPRBs</u></p> <p>HB2713 HD1 Kawaihae School</p> <p>HB2987 HD1 SD1 Saint Louis School</p>	<p><u>STUDENTS</u></p> <p>SB3059 SD2 HD1 CD1 Model Statewide Curriculum; \$2,008,000</p> <p>SB2505 SD2 HD1 CD1 School-Based Substance Abuse Program; \$1,817,500</p> <p>SB3273 SD2 HD2 CD1 Certified Substance Abuse Counselors</p> <p>SB2980 SD2 HD1 CD1 High Schools; Construction Academy, \$</p> <p>HB1900 HD1 SD1 CD1 Construction Academy; \$5,402,182</p>	<p><u>MILITARY</u></p> <p>HB1879 HD1 SD1 CD1 Veterans' Newsletter; \$50,000</p> <p>HB1809 HD2 SD2 CD1 Renewal of Driver's License within 90 days of return</p> <p>HB2457 HD1 SD1 CD1 Clarifies Military Presence as a state concern</p> <p>SB1648 SD1 HD2 CD1 Tuition Waivers for National Guard and Reserves</p> <p>HB173 HB1 SD1 Requires TAG and DAG to serve at least five years in the HNG (GM 331-VETOED)</p>
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