TESTIMPRP SR100



DARWIN L.D. CHING DIRECTOR

COLLEEN Y. LaCLAIR DEPUTY DIRECTOR

STATE OF HAWAII DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS 830 PUNCHBOWL STREET, ROOM 321 HONOLULU, HAWAII 96813 www.hawaii.gov/labor Phone: (808) 586-8842 / Fax: (808) 586-9099 Email: dlir.director@hawaii.gov

April 7, 2010

To:	The Honorable Dwight Y. Takamine, Chair
	and Members of the Senate Committee on Labor

Date: April 8, 2010

Time: 2:45 p.m.

Place: Conference Room 224, State Capitol

From: Darwin L.D. Ching, Director Department of Labor and Industrial Relations

Comments on S.R. 100 and S.C.R. 201: Urging the Department of Labor and Industrial Relations to Adopt Rules to Prohibit Abusive Work Environments.

The Department offers the following comments on S.R. 100 and S.C.R. 201 because it believes, under current law, sufficient protection already exists against workplace violence.

The law already contains numerous prohibitions and protections against harassment. Not only is harassment punishable as an offense under the penal code, Section 711-1106, HRS, but harassment based on being part of a protected class (race, color, sex, sexual orientation, marital status, national origin, ancestry, or disability) may be characterized as unlawful discrimination and is prohibited.

Additionally, the Department's Occupational Safety and Health Division (HIOSH) has section 60-2(a)(3), Hawaii Administrative Rules (HAR), which requires employers to "provide safe work places and practices by elimination or reduction of existing or potential hazards." This rule is the general duty clause that HIOSH has used to cite employers for exposing employees to workplace violence and abusive behavior.

Moreover, the HIOSH has a pamphlet entitled "Preventing Workplace Violence—What you can Do" available in its library and free of charge to all employers and employees.



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The Twenty-Fifth Legislature, State of Hawaii Hawaii State Senate Committee on Labor

Testimony by Hawaii Government Employees Association April 8, 2010

> S.C.R. 201 – URGING THE DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS TO ADOPT RULES TO PROHIBIT ABUSIVE ENVIRONMENTS.

The Hawaii Government Employees' Association, AFSCME Local 152, AFL-CIO supports the purpose and intent of S.C.R. 201, which calls upon the Department of Labor and Industrial Relations (DLIR) to adopt rules to prohibit abusive work environments. This concurrent resolution also urges DLIR to develop and disseminate information to employers on such environments and the legal consequences of abusive work environments.

Abusive work environments can have serious health effects on targeted employees, including stress, loss of sleep, anxiety, depression, hypertension, and stress-related gastrointestinal disorders. Such environments can also have adverse consequences for employers, in the form of reduced employee productivity, low morale, increases in medical and worker's compensation costs, higher turnover and absentee rates. Eliminating abusive conduct in the workplace is in the best interest of both employers and employees.

Unless targeted employees are subjected to abusive treatment on the basis of a protected class status (race, sex, national origin or age), they are unlikely to have any recourse or redress for such treatment. The proposed rules would help to addresses that discrepancy and may offer employees an avenue to address and pursue a remedy to workplace abuse.

It has always been our position that employees be afforded a safe and healthy work environment. We appreciate the opportunity to testify in support of S.C.R. 201.

Respectfully submitted,

Nora A. Nomura Deputy Executive Director The Twenty-Fifth Legislature Regular Session of 2010

THE SENATE Committee on Labor Senator Dwight Y. Takamine, Chair Senator Brian T. Taniguchi, Vice Chair

State Capitol, Conference Room 224 Thursday, April 8, 2010; 2:45 p.m.

STATEMENT OF THE ILWU LOCAL 142 ON S.C.R. 201 AND S.R. 100 Urging the Department of Labor and Industrial Relations to Adopt Rules to Prohibit Abusive Work Environments

The ILWU Local 142 supports adoption of S.C.R. 201and S.R. 100, which urges the Department of Labor and Industrial Relations to adopt rules to prohibit abusive work environments.

The Department of Labor and Industrial Relations is charged with promoting safe and healthful working environments. One element of such a work environment is a workplace free of harassment and abuse. While we fully understand that defining these terms may present problems and differences of opinion, we believe that the Department should acknowledge that harassment and abuse do exist in the workplace and help to define ways that employers can prevent such negative behavior.

Most, if not all, employers want to ensure a safe and healthful work environment for their employees. They want employees to feel secure at the workplace in order to maximize productivity. The Department would be providing a service to employers by developing rules and guidelines that define abuse and harassment and assist employers with resources for education and counseling.

The ILWU urges adoption of S.C.R. 201 and S.R. 100. Thank you for considering our testimony.

Clayton Yamashiro POB 2781 Ewa Beach, HI 96706 April 7, 2010

Senate Labor Committee

Senator Dwight Y. Takamine, Chairman Senator Brian T. Taniguchi, Vice-Chairman Senator Robert Bunda, Senator Clayton Hee and Senator Sam Slom, Committee Members

Dear Sirs:

Re: Senate Resolution 100

My name is Clayton Yamashiro and I am here to support this Resolution.

I am Kathleen Yamashiro's husband. These past few years have been filled with anger, frustration and helplessness as I have had to stand by and watch my wife and her health suffer because of her work situation. There has been many days and nights when my wife experiences emotional and physical episodes.

From April 2008 thru December 2008, I took my wife to work, picked her up for lunch and picked her up after work. I also called her at mid-morning always assuring her that she would be okay.

A week after my son, Anthony's passing, my wife called the supervisor to request an extended vacation leave. The supervisor yelled so loud that I heard her through the cell phone five feet away. My wife and I were shocked at this behavior and outburst. How could a person be so insensitive?

I believe that passing this Senate Resolution will help many people who are experiencing Psychological Violence in the Workplace. It would keep management and employees in check.

Thank you for the opportunity to express my concerns and to testify on behalf of this Senate Resolution 100.

Sincerely,

Clayton Yamashiro

Maija L Kemper 5136 Iroquois Ave Ewa Beach, Hi 96706

LABOR COMMITTEE

Senator Dwight Y. Takamine, Chairman

Senator Brian T. Taniguchi, Vice-Chairman

Senator Robert Bunda, Senator Clayton Hee and Senator Sam Slom, Committee Members

Ref: Senate Resolution 100

Relating To Workplace Practices

My name is Maija L Kemper and I have been employed by an Agency since October 2003. In October 2007, I transferred to a place of work closer to my home. My new supervisor gave me work but refused to provide training in a Program that I had not done for several years. I performed the work the best that I could. The Supervisor monitored and checked my work for three months with no complaints. I thought that I was progressing very well.

In the fourth month, the Supervisor called me into her office and accused me of not knowing what I was doing, that I was doing my work wrong, and she was going to transfer me back to my previous place of work. I was shocked; there was no warning. I did not know that she was not happy with my work. This has never happened to me before. Also the supervisor wrote me up for the errors of previous workers. After that incident, I was not able to do my work in a timely manner.

A month after this incident, the Supervisor again called me into her office, closed the door, and started screaming to me again, "You don't know what you are doing, all your work is wrong and I want to get rid of you." After about ten minutes of her screaming, I left her office and told the secretary I was going home sick. I was shaking, crying and not able to do my work that day. I did not return to that workplace, and was transferred back to my previous workplace.

I needed therapy to address my psychological distress. To date, I have not recovered from that incident. Therefore, I am in favor of Senate Resolution 100. I thank you for taking the time to hear my story.

Sincerely,

Maija L Kemper

THE SENATE

THE TWENTY-FIFTH LEGISLATURE

REGULAR SESSION OF 2010

COMMITTEE ON LABOR	
Senator Dwight Y. Takamine, Chair	
Senator Brian T. Taniguchi, Vice Chair	3

TESTIMONY OF SUSAN BREININGER

RE: SR100

RELATING TO WORKPLACE PRACTICES

Aloha gentlemen. My name is Susan Breininger and I am testifying in favor of Senate Resolution 100 relating to workplace practices.

I am a retiree from Hawaii State DHS employment after 21 years of service. During that time I witnessed many instances of abusive, bullying, behavior. This took place from supervisors to employees, employees to employees and employees to supervisors. The form it took was anywhere from just yelling to insulting to blatant threatening of employment status. In every instance the workplace environment was severely impacted in a negative manner and productivity of the individual targeted and others affected by it declined markedly. The most egregious aspect of this was that only the most vulnerable individuals were targeted for this abusive treatment. There seemed to be no proscription in the State employment psyche against such behavior.

It is well documented in other spheres of endeavor that abusive, bullying tactics achieve nothing but resentment, ill health and low productivity. In view of the many criticisms the State encounters regarding efficiency I firmly believe that a legislative resolution, such as that proposed by SR100 urging the Department of Labor and Industrial Relations to adopt rules that would protect those injured by abusive, bullying tactics, would bring the issue to the fore, encourage more positive methods and behavior and significantly increase productivity.

Respectfully submitted,

Susan Breininger

Kathleen Yamashiro POB 2781 Ewa Beach, HI 96706

State of Hawaii Legislature 2010 Labor Committee Honorable Chairman Dwight Y. Takamine Honorable Vice-Chairman Brian T. Taniguchi Honorable Committee Members

Re: Senate Resolution 100

Dear Sirs:

My name is Kathleen Yamashiro and I am here to testify in support of Senate Resolution 100. This Senate Resolution is one that will address Hawaii's workplace to ensure a safe and hostile free environment. I hope this Resolution passes this Legislative Session so that what I have experienced will not happened to anyone else.

I have been employed with an Agency for 26 years. Of the 26 years, 16 years was in the field I am presently in. My yearly Job Performance Reviews has met or exceeded expectations.

In August 2007, I was promoted to another position. A month later, I began experiencing psychological and physical problems due to my Supervisor's management style which included yelling and intimidation. My Supervisor's inappropriate conduct has also had a negative affect on my clients whereby I have had to calm their fears before assisting them.

The last time my supervisor yelled/shouted at me was when my son, Anthony passed away. Anthony passed away unexpectedly at the age of 24 years old on 3/24/09. I took a Vacation Leave of four working days at this end, I called my Supervisor intending to ask for an extended leave till the end of 4/09. My supervisor started yelling/shouting telling me that (I had a lot of work, I had things to do that needed tending to, that she was sorry for my loss but I had to understand that she had a unit to run).

My Supervisor yelled so loud that my husband heard her shouting five feet away from me. We were traumatized and distressed. I returned to work 3 days after my son's funeral. Upon my return to work, my coworkers reported that my work was good and none of my cases needed immediate attention.

At the end of 8/09, on two occasions, my supervisor discussed an issue with me. She raised her voice and spoke with an unkind tone, facial expression and body language. I left the Workplace and could not work for 5 months. I have provided my Administrators

Page 2 Kathleen Yamashiro

with letters from three physicians recommending a transfer to a hostile free work environment; that did not happen.

Employers do provide Seminars and Training on Violence in the Workplace. However, through research, I have found that there are no State laws governing these issues in the workplace. The Laws do protect people based on gender, disability, race, religion or political beliefs or sexual discrimination. There are no laws that prohibit, specifically, inflicting emotional and mental distress, or yelling and shouting or verbal abuse of employees.

There are the Hawaii Revised Statues 396 and 398. HRS 386-3 talks about injuries covered under Worker's Compensation, personal injury, etc. They are general and vague. I feel that we need to take measures to prevent situations from becoming a Workers Compensation claim.

In closing, I sincerely thank you all for taking the time to hear my concerns and hope that you will find favor in this Senate Resolution 100.

Sincerely,

Rathles yames

Kathleen Yamashiro

SENATE LABOR COMMITTEE Senator Dwight Y. Takamine, Chairman Senator Brian T. Taniguchi, Vice-Chairman

I SUPPORT SENATE RESOLUTION 100

I was employed at a place where the supervisor yelled, swore, knit picked and lied about me for six years. The supervisor also yelled and swore to other employees; especially if they supported me. If my coworkers corroborated with my story, the supervisor would at any turn, yell, intimidate and harass them. I finally was able to transfer to another job site.

Sorry, I cannot reveal my identity. But, please pass this Resolution because we need some kind of awareness and protection in the Workplace.

Josephine Garcillas 94-011 Waipahu Street, D-112 Waipahu, Hawaii 96797

IN REFERENCE TO SR 100

Dear Senator Dwight Y. Takamine, Chairman and Senator Brian T. Taniguchi, Vice-Chairman:

I was employed at an agency from 2004 thru 2009 as an Office Assistant. During my employment there, I have been mistreated, yelled at, verbally and mentally abused by co-workers and supervisors. I assisted two units and had two supervisors. In one unit I did the accounting and the other unit office clerk. The Department was short staffed with no assistance.

There was an incident when almost half of the office was against Supervisor #1. A letter was circulated for employees to sign in support of getting rid of this supervisor because he did not support them when they made decisions regarding clients. I refused to sign this letter because I did not want to get involved.

A few days later, I was interrogated by Supervisor #1. I told him that there was a letter, I did not read it and I did not sign it. I did not tell him at the time because I felt that it was none of my business. Supervisor #1 told my co-workers that I told him all the details of the letter.

I was approached by Supervisor #2 who yelled at me in front of all the other employees, asking me why I told Supervisor #1 about the letter. Supervisor #2 further yelled and said, "You couldn't just shut up your mouth or just lie about it?" I walked away not saying anything and in tears. I informed another co-worker that I wasn't feeling well and left for home. I was very frustrated and very disturbed. I thought not only did my Supervisor #1 put me in a fire but I was also interrogated like it was all my fault. And he lied about me and put me in a terrible situation with other employees.

Another incident was when I called in sick one morning when Supervisor #2 did not answer the phone. I spoke to another coworker and told her I wasn't feeling well so I was not going to work. A few minutes later, Supervisor #2 called me at home while I was sick in bed. Supervisor #2 asked me why was I at home again. I replied that I called in sick a few minutes ago and did she not get the message. Supervisor #2 said that I was always sick and I need to learn to take care of myself. And that when I am sick there is no one to do the work and the work gets piled up.

I was shocked that Supervisor #2 would call me at home and yell at me. I told Supervisor #2 that I was not feeling well, sick, I did not ask to be sick and I don't want to be sick; but I was sick. I also told Supervisor #2 that I know that the work gets piled up when I am out sick but what can I do. It is not my fault that Management doesn't support and provide more personnel to help with the work load.

I told Supervisor #2 that I did not like to be called at home to be yelled at and spoken to in an abusive manner. Supervisor #2 again reminded me that I needed to take care of myself. I hung the phone up on her because I was so upset.

When I returned to work, I informed the Administrator. Supervisor #2 acted as if nothing was wrong with what she did. The Administration did not do anything about the incident.

My coworkers reported to me after Supervisor #2 called me at home and talked to me. She came out of her office and in the middle of the main office spoke loud and announced to all the employees, that I was out sick again and that if I was out sick for personal reasons, I should just quit! Because I have been abused and mistreated, I was lucky that I could transfer to another Department.

I am therefore, more that 100% in support of Senate Resolution 100.

Should you have any questions or concerns, please feel free to contact me at the above address. Mahalo!

Sincerely,

Josephine Garcillas

THE HOUSE OF REPRESENTATIVES TWENTY FIFTH LEGISLATURE 2010 STATE OF HAWAII

LABOR COMMITTEE

Chairman, Vice Chair and Members of the Committee:

This online testimony is in support of HB2473 regarding "Creating A Safe Work Environment." From 1994 through 1996, I was employed at the Department of Human Services (DHS) Waiakamilo Offices, working for the Foster Home Certification Unit, where it was necessary for me to file a complaint with the Civil Rights Office of that Department.

Being new to that work unit, I was immediately told by a senior member there that, "Remember, you are at the bottom of the totem pole," by a person who never knew me, never met me previously. I honestly thought she was joking, so I laughed and went along with what I believed to be "office humor." As the days and weeks went on however, I began to understand that this person, for whatever reason seemed to make it her job to antagonize and denigrate me at numerous times.

There was another male working with the unit, with whom unit members talked about and treated more in a sub-human fashion, however for some reason, I was afforded more humane treatment by most of the workplace employees. However, this one individual's statements and comments became increasingly more abusive, saying things like, "Why don't you take off all your clothes so we can paint you blue and you can run around like that," and "Why don't you take off your pants so we can see your penis." There was a social worker there who was the youngest on staff so this individual in front of everyone says, "Why don't you do it with her cause she I think she's a virgin." This is only a sample of the treatment this person provided daily.

The sexual nature of her barbs and put downs was just a sample of negative attitudes and behavior which I tolerated for months, thinking I should just laugh and ignore, but after her statements became more sexual in nature, I decided that this was getting out of hand. I found an attorney who would assist me, then subsequently went to the Civil Rights Office and filed a complaint of sexual harassment. The Civil Rights Office responded immediately and conducted an investigation, interviewing sixteen people in the work place who testified. In the end, it was determined that I was not a victim of sexual harassment, but the case was determined to be "Creating a Hostile Work Environment."

The individual received a consequence of receiving counseling from the unit supervisor which was a big joke after enduring months of abusive treatment from her. A month later I transferred to another State Department and received a promotion, but as I look back, I see that situation as being regrettable. I believe that the State could help its employees to have better work morale and be more productive employees if there were a system in place which could evaluate not just the employees, but supervisors and those wielding power and authority. I believe the State could create not just a healthier, more productive work environment, but probably save more money spent on sick leave and counseling expenses used by unhappy employees.

I am writing in support of this house bill. I was employed at this one place for 7 yrs. During the 7 yrs. my co-worken for no reason swore, Yelled and harassed me. This employee was a triend of the administrator. this employee even threatened to shoot me. I reported the incident to the authorities and administration, My complaints fell on deat ears, I always came to work on time and did my job. They never came to work on time and never did their job. Thank you tor reading this complaint. I wish to remain annonymous.

Thank You

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PLEASE SUPPORT THIS STATE OF HAWAII SENATE & HOUSE BILL TO MAKE IT UNLAWFUL FOR: PUBLIC GOVERNMENT EMPLOYEES IN MANAGEMENT, AND EMPLOYEES TO INFLICT MENTAL AND EMOTIONAL DISTRESS; TO INTIMIDATE, HARASS, BROWBEAT, AND/OR USE VERBAL ABUSE UPON ANOTHER EMPLOYEE.	SJGNATURE PHONE # ADDRESS	halst them 206- 0701 242 hered at	Selleco 368-3059 1617 August 577	i Wilgung Jaree 330 7494 1617 Auguni St	Neve Mars 266-0702 2412 Sheer et	Hulea CVILORE Norle 1621 Oripaa St	Die Pone Nove leit Avernist	Sala Daplan 4NC 1226 551 Thake A ST	24hi young 207-756 94 400 6000 5-	Think Later 1.30- 8383 24rg Mangel # ST	Re Present AV 8- 1806 98-288 Hanchi I	Rie Calorto 1942 - 6632 14/6 MIDDIE 57-	All Down V270027 DOBY 42 Meh	From Orland 732-5267 4956 100 Hale the	March Manuel 9815203	Mau Suy level 284.4848 1212 Mauane Are 439 then the 9817	The Marin 988 1903 32740- Jone Rord	mole Parish Legis - 5-96 & 141 Mull Under	Ela, Miles) 780-5000 7 0 Bux 14 6 4	hun ham UNUISter 3553 Malas for	Dean Mark 946-0366 767PUNEHANASTAPTD HONHI
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Natasha Sakai	XQ ~ -	6-207-580	91-868 Walewer PI Ewa, HI 96706
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ROSE SCHART	allered a C	712-228-8117	Derofter is
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CARL LAVEISS	Carl Citico	450-1291	
Michael Alfond-cline	Mich au L. M. F. Dine	489-812)	2029 Uhu St. Hondy / 46819
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PLEASE SUPPC PUBLIC GOVERNMENT DISTRESS; TO INTIMIE	PLEASE SUPPORT THIS STATE OF HAWAII SENA GOVERNMENT EMPLOYEES IN MANAGEMENT, SS; TO INTIMIDATE, HARASS, BROWBEAT, AND	TE & HOUSE BILL TC AND EMPLOYEES TO VOR USE VERBAL AI	PLEASE SUPPORT THIS STATE OF HAWAII SENATE & HOUSE BILL TO MAKE IT UNLAWFUL FOR: PUBLIC GOVERNMENT EMPLOYEES IN MANAGEMENT, AND EMPLOYEES TO INFLICT MENTAL AND EMOTIONAL DISTRESS; TO INTIMIDATE, HARASS, BROWBEAT, AND/OR USE VERBAL ABUSE UPON ANOTHER EMPLOYEE.
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Mariello Armoli	Dalcol Censo	428-0705	98-402 Pro St. Ai # 900	6
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Carolyn Araki	Goog - areli	457-0 697	94-780 Lumianau St ##1 96797	
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YAS BARNAD	ALL AN	232-4789	45-3-28 WILLAMAY AMARKE 96-742	
Malia Infiel	S.M. Houl	428-1203	386 N. Vineward BLA. ITB	K
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Jade Reach	Land Ard	302-0079	3260 Kilihune Pl. Han. HI9600
ARTHUR AWAYA	Allen Anna	735-1488	3265 Kilihun Pl, Hone HI 96816
JARON HANZAWA	pron Angeler	398-5100	95-1191 MAHAMAI ST.#52 WILLAND #196789
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			916816-35-26

Thank you for your kokua in eliminating workplace abuse in our government.

Please support this State of Hawaii Senate and House bill to make it unlawful for:

Public Government Employees To Inflict Mental And Emotional Distress, To Intimidate, Harass, Browbeat And/Or Use Verbal Abuse Upon Another Employee SIGNATURE

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Corga.~	7269 Koki St.	497-6499
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Testimony for SR 100 and SCR 201

Relating to the Adoption of Rules by the Department of Labor and Industrial Relations Abusive Work Environments April 7, 2010

My name is Ann G. (Angie) Tam Sing and I am writing in support of these resolutions. Although I am currently retired, I have seen in my many years of working in Hawaii, instances where others in the workplace were verbally abusive and/or intimidating to another or others with whom they worked or supervised. Often times it was as a result of pressures either in the job or in their personal lives. However, no one should be subjected to another person's inability to control their anger or frustrations, least of all an employee from their immediate supervisor. Please support these resolutions and work to stop this kind of behavior in Hawaii's workplaces.

Thank you for this opportunity to speak to this issue, which I feel is of the utmost importance. If you have any questions, please do not hesitate to contact me. I can be reached via e-mail at: <u>atamsing@hawaii.rr.com</u>

Aloha and Mahalo,

Ann G. (Angie) Tam Sing 865 Kahena St. Honolulu, HI 96825

<u>THE SENATE</u> THE TWENTY-FIFTH LEGISLATURE REGULAR SESSION OF 2010

<u>COMMITTEE ON LABOR</u> Senator Dwight Y. Takamine, Chair Senator Brian T. Taniguchi, Vice Chair

TESTIMONY OF SUSAN BREININGER RE: SR100 RELATING TO WORKPLACE PRACTICES

Aloha gentlemen. My name is Susan Breininger and I am testifying in favor of Senate Resolution 100 relating to workplace practices.

I am a retiree from Hawaii State DHS employment after 21 years of service. During that time I witnessed many instances of abusive, bullying, behavior. This took place from supervisors to employees, employees to employees and employees to supervisors. The form it took was anywhere from just yelling to insulting to blatant threatening of employment status. In every instance the workplace environment was severely impacted in a negative manner and productivity of the individual targeted and others affected by it declined markedly. The most egregious aspect of this was that only the most vulnerable individuals were targeted for this abusive treatment. There seemed to be no proscription in the State employment psyche against such behavior.

It is well documented in other spheres of endeavor that abusive, bullying tactics achieve nothing but resentment, ill health and low productivity. In view of the many criticisms the State encounters regarding efficiency I firmly believe that a legislative resolution, such as that proposed by SR100 urging the Department of Labor and Industrial Relations to adopt rules that would protect those injured by abusive, bullying tactics, would bring the issue to the fore, encourage more positive methods and behavior and significantly increase productivity.

Respectfully submitted, Susan Breininger