

**Commission on Sexual Orientation and the Law
Legislative Reference Bureau
State Capitol, Room 446
Honolulu, HI 96813**

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*Thomas P. Gill, Chairperson
Lloyd James Hochberg, Jr.
Robert H. Stauffer*

*Morgan Britt
Nanci Kreidman*

*L. Ku'umeaaloha Gomes
Marie A. "Toni" Sheldon*

**MINUTES OF THE MEETING HELD
ON THURSDAY, DECEMBER 7, 1995
(Continued to December 8, 1995 and December 13, 1995
and as Approved at January 4, 1996 Meeting)**

I. Call to Order

The seventh meeting of the Commission on Sexual Orientation and the Law was called to order by Chairperson Thomas P. Gill at 9:20 a.m. at the State Capitol in Room 309, 415 S. Beretania St., Honolulu. Members present were:

Thomas P. Gill, Chairperson
Nanci Kreidman
Marie A. "Toni" Sheldon
Robert H. Stauffer

Morgan Britt
L. Ku'umeaaloha Gomes
Lloyd James Hochberg, Jr.

A copy of the final report dated December 7, 1995 was distributed to the Commissioners.

Legislative Reference Bureau staff explained that the text of the report had all the changes received as of December 6, 1995. She stated that there might be some grammatical, technical and typographical errors that would be handled before the official printing of the report. Of note, she stated that she had received specific statutory cites from the minority with regard to their draft legislation for expanding the definition of family. She expected that re-drafting the legislation with these specific citations would increase the number of pages of the legislation. LRB staff reviewed the other appendices as attached.

II. Finalize and Vote on Report to Legislature

Mr. Hochberg asked to include Dr. Kehoe's testimony to counteract Dr. Bidwell's testimony that was included in the appendices. Dr. Stauffer explained that Dr. Bidwell's testimony was included to balance Diane Sutton's testimony, also included in the appendices. The LRB staff commented that both Dr. Bidwell and Diane Sutton's testimony is available in the minutes and both could be removed.

A disagreement on what should be added or not added to the appendices included Mr. Hochberg's statement that in the discussion of the matter he did not want to waive his right to put what ever he wanted in the appendices. He stated that this is based on his understanding of the majority's previous agreement to allow the minority to present their points unedited by the majority. The Chair clarified for Mr. Hochberg that the majority was allowing the minority the opportunity to present their opinion in the report.

Mr. Hochberg stated that the minority wanted to include four additional items in the appendices, as follows:

- (1) A one-page article addressing the "Homosexuality" article.
- (2) An article written by Dr. Charles Socarides.
- (3) An article refuting the Boswell information included in the Appendix under Other References.
- (4) The testimony of Dr. Kehoe, to refute the testimony of Dr. Bidwell.

Mr. Hochberg's position was that the Commission had not discussed the material and so it must be included in the minority portion of the report so that a complete report will be made to the legislature.

Ms. Kreidman stated that it is unfair for the minority to say the Commission did not discuss the minority material. Whether or not the material is included verbatim in the report, she believes the Commission had some substantive discussions.

Ms. Sheldon read a passage from her written "Proposed amendments to October 25 minutes" in conjunction with the agreement that was put forth regarding what was to be included by the minority. Ms. Sheldon stated that the minority believed that this was their "turn" to put their material into their report. Ms. Gomes clarified that it is not two reports but one report with a minority opinion. Mr. Britt added that the Commission did a study of the issues, and the majority has found that the minority position facts are inaccurate and unsubstantiated.

Dr. Stauffer pointed out that the minority did not submit any written material until November 22. While other members of the Commission met the internal deadlines of the meeting schedule adopted at the first meeting.

Chairperson Gill added that the Commission is not opposed to including a small amount of new material. For example, the majority added three pages from Dr. Bidwell to balance testimony from Diane Sutton. Mr. Hochberg felt it was critical for the legislators to hear what Ms. Sutton has to say and said that the majority should not be afraid to include the material. Mr. Gill confirmed that Ms. Sutton's testimony was already included.

Dr. Stauffer made a motion to adopt the appendices as LRB has presented them. Ms. Gomes seconded the motion.

During the discussion period, Mr. Britt brought up that a memo to the Commission from Mr. Aitken addresses Ms. Sutton's testimony. It was agreed not to include the memo from Mr. Aitken.

The motion to adopt the appendices as LRB had presented them passed with Mr. Britt, Ms. Gomes, Ms. Kreidman, Dr. Stauffer and the Chairperson voting aye and Mr. Hochberg and Ms. Sheldon voting nay.

Chairperson Gill then addressed the text of the report. Mr. Hochberg stated that he has not had a chance to read the full report. Ms. Kreidman agreed the Commission should recess and reconvene at 4:00 p.m. tomorrow to have an opportunity to read the report. Everyone agreed.

The room where the continuation of the meeting will be held will be posted in all the elevators of the State Capitol and on the Public Announcement Board at the chamber level of the building.

There were no public comments.

The meeting recessed at 10:17 a.m. on Thursday, and reconvened on Friday, December 8 at 4:10 p.m. in Room 309, State Capitol Building.

December 8, 1995

All members were present. LRB staff stated that she had modified the minority's proposed draft legislation relating to family which changed it from a one-page document to a thirty-nine-page document. Additionally, she wanted to insure that each member had received a letter dated December 7, 1995, from the Speaker of the House of Representatives, Joseph Souki. She faxed it to each member. A copy of the letter is attached to these minutes as Attachment 1.

In light of Speaker Souki's concern for a full report, Mr. Hochberg moved to re-open the issue of adding items to the agenda and moved to include the four items previously requested be added to the appendices:

- (1) A one-page article addressing the "Homosexuality" article;
- (2) An article written by Dr. Charles Socarides
- (3) An article refuting the Boswell information included in the Appendix under other References.
- (4) The testimony of Dr. Kehoe, to refute the testimony of Dr. Bidwell.

Ms. Sheldon seconded the motion.

During the discussion period Dr. Stauffer spoke against the motion but made a point that it was out of no disrespect for Speaker Souki. Dr. Stauffer believed that Speaker Souki would be getting a complete report without the addition of the appendices, and as the Commission agreed not to add any substantive material after December 6, Dr. Stauffer believes the additional appendices should not be included.

A vote taken on the motion to add to the appendices did not pass with Mr. Hochberg and Ms. Sheldon voting aye, and the Chairperson, Mr. Britt, Ms. Gomes, Ms. Kreidman, and Dr. Stauffer voting nay.

Chairperson Gill then stated that he would entertain a motion to accept the text of the written report. Mr. Hochberg suggested that there be separate votes on the minority and majority portions of the report. He made a motion to that effect, that was seconded by Ms. Sheldon. During the discussion of the motion the Commission agreed that it was awkward for the majority to approve the minority portion, and vice versa. It was agreed that a positive vote for the Report by the majority was not stating that they were agreeing with the content of the minority portion, only of its existence. On the other hand, it was also agreed that a negative vote by the minority in accepting the Report was qualified in that it was not rejecting the minority portion. With that agreement, Mr. Hochberg withdrew his motion for a separate vote.

Dr. Stauffer made a motion to accept the final December 7, report with the requisite grammatical, typographical and technical nonsubstantive changes to be made by the Legislative Reference Bureau. Ms. Gomes seconded the motion.

The motion to accept the report as presented in the December 7, 1995 draft passed with the Chairperson, Mr. Britt, Ms. Gomes, Ms. Kreidman and Dr. Stauffer voting aye and Mr. Hochberg and Ms. Sheldon voting nay with the stated qualifications as agreed above.

The matter of the minutes of the meetings of October 25, November 8, and November 22 that was put over from the last meeting was the next item of business. A motion was made by Ms. Kreidman and seconded by Mr. Britt to continue the meeting until December 13, 1995 to address the minutes. The motion passed with unanimous approval.

The meeting place will be posted in the elevators and at the public information board at the chamber level on the day of the meeting.

The meeting was recessed at 5:00 p.m.

December 13, 1995

The meeting was reconvened at 9:15 a.m. on December 13, 1995, in Room 312, at the State Capitol. Ms. Gomes was excused. All other members were present.

The Legislative Reference Bureau staff informed the Commission that the advance copies of the final report will be available Friday.

Minutes of the Meeting of October 25 were addressed first. Ms. Sheldon had prepared written proposed amendments to the draft. Dr. Stauffer had made some hand-written comments that the staff of LRB was unable to transcribe in time for the meeting. Copies of Dr. Stauffer's handwritten comments were handed out. It was later determined that the copies of Dr. Stauffer's comments had only the odd pages.

Ms. Kreidman suggested that if there are any objections to any of the suggested amendments it should be brought up and discussed. The Chair agreed, and the amendments were reviewed page by page. If there were no objections the amendment is accepted.

Ms. Sheldon's proposed amendments attached as Attachment 2 to these minutes were addressed first. The Commission managed to review Ms. Sheldon's amendments through Page 30 on the original 107 page draft of the Minutes of October 25, 1995.

All proposed amendments by Ms. Sheldon as listed through Page 30 were accepted as drafted except as follows:

- (a) On page 1, the 16th line is replaced to read "The Commissioners were given a few minutes opportunity to review and discuss the suggested amendments. Dr. Stauffer added that Sister Chatfield's title on page 11 was not capitalized."
- (b) On page 3, an explanation of the testimony attached will be added after T-9, "of the testimony attached to these minutes"
- (c) On page 3, the proposed amendment is further modified in (3) by changing "who" to "that" and by removing "except as to kids in high school" and inserting "generally" before the word "discourages".
- (d) On page 4, the correct spelling of "segwayed" to "segued".
- (e) On page 5 the statement by Mr. Van Dyke regarding the Supreme Court's ivory tower is broken into two sentences for clarity.
- (f) On page 7, second full paragraph, correct the spelling of compromises in the last line.
- (g) On page 9, the second paragraph of Mr. Rohlfing's testimony add "that it errs" at the end of the second to last sentence.
- (h) On page 11, Mr. Britt clarified his discussion with Mr. Rohlfing in the first paragraph.
- (i) On page 12, only the second paragraph of Ms. Sheldon's amendments were used and the rest is taken from the Suggested substantive amendments attached as Attachment 3, prepared by LRB. Mr. Hochberg asked to include the references he researched, as listed in Footnote 264 of the Report. It was also decided to include Mr. Coleman's charts in the testimony part of the minutes with a reference to the charts in the body of the text.

The Commission recessed for ten minutes from 10:15 and 10:25.

- (j) On page 18, the first three paragraphs of Ms. Sheldon's proposed amendments are withdrawn and replaced with the LRB version in Attachment 3 except Ms. Sheldon's statement that "Mr. McGivern stated that this is the first time he ever appeared before a body, knowing that what he and others had to say makes no difference." is included.
- (k) Everything after reconvening but before "III." is included except the fourth paragraph and with the addition of the voting record in the seventh and eight paragraphs.
- (l) Insert the words "described the motion as an adoption of a guiding principle for the Commission's work, because defining "major" was necessary" after "Dr. Stauffer" in the fourth paragraph on page 19. Remove the rest of the sentence.

While there were no objections to the proposed amendments on page 20, Dr. Stauffer expressed concern at the transcription of casual banter between the Commission members. The Chairperson was not concerned.

- (m) Page 21 amendments were withdrawn by Ms. Sheldon.
- (n) Page 25 amendment was modified to read "It was noted by Mr. Hochberg that there was no second, at which point the motion was seconded."
- (o) Page 27 amendments were discussed regarding whether the minutes were supposed to be verbatim transcriptions and what the law required. A proposed statement by Mr. Roth regarding other jurisdictions was at issue. The question was whether or not the amendment was misquoting Mr. Roth. There was disagreement on this. There was also discussion and disagreement as to the Commission's agreement regarding the treatment of other jurisdictions.

A compromise was reached that replaced the word "actually" with the word "also"; removed the last sentence in the first paragraph; and inserted "he understood that" in the last sentence of the second paragraph just after, "Mr. Hochberg pointed out that..."

- (p) Initially no objections were raised to the amendments proposed for page 29 but there was discussion concerning the minority's understanding of "when we get to your section.". The Chair asked Ms. Sheldon to clarify. Ms. Sheldon stated that if referred to the minority's turn. Ms. Kreidman' asked for further clarification on when the minority perceived as their turn, now, in the report or some other time? Ms. Sheldon believed that the minority turn never came, they expected the majority to submit their material for comment. Dr. Stauffer pointed out that all the Commissioners knew the internal deadlines to bring in materials to present for the different stages of the Commission's discussions

and there were no materials presented by either Ms. Sheldon or Mr. Hochberg. He believed that if those deadlines were made by other members of the Commission the minority should have been able to meet them.

Regarding the second proposed amendment on page 29, Mr. Hochberg stated that amendments are needed because the minutes are too passive. LRB staff agreed that her recitation of the events in the meetings passive and toned down on both sides.

Ms. Sheldon moved to accept the paragraph starting "Mr. Gill told Mr. Hochberg", which was seconded by Mr. Hochberg. A discussion yielded a modification of the paragraph that removes the second and third sentence of the paragraph. There was no objection as amended, and the motion was withdrawn.

(q) The proposed amendment on page 30 was withdrawn.

The Chairperson noted the time and the Commission agreed the task could not be completed today. The LRB staff brought up that an item in the November 8, 1995 minutes needed to be addressed.

Ms. Sheldon referred to "Proposed amendments to November 8, 1995" and withdrew her proposal to amend page 4 of the draft minutes of November 8, 1995. There was no objection by the Commission.

Ms. Sheldon commented that this item is reported in the minority opinion and she would like to edit the minority chapter (page 88) to accurately reflect the events of November 8.

Dr. Stauffer moved that minority opinion can be edited to reflect this change. Ms. Kreidman seconded. The motion passed with the Chairperson, Mr. Britt, Ms. Kreidman, Ms. Sheldon, and Dr. Stauffer voting aye. Mr. Hochberg abstained.

The LRB staff confirmed with the Commission that the minutes of November 8 are not completely approved or finalized.

Mr. Hochberg passed out the attached copy of information he copied off the Internet attached to these minutes as Attachment 4.

Dr. Stauffer moved to adjourn and notice the meeting for January 4, 1996. Mr. Britt seconded the motion. The motion was unanimously passed.

JOSEPH M. SOUKI
SPEAKER

HOUSE OF REPRESENTATIVES

STATE OF HAWAII
STATE CAPITOL
HONOLULU, HAWAII 96813



December 7, 1995

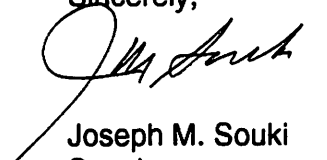
Mr. Thomas P. Gill, Esq.
Chair, Commission on Sexual Orientation and the Law
547 Halekauwila Street, Suite 202
Honolulu, Hawaii 96813

Dear Chair Gill and Commissioners:

It has come to my attention that in preparing the Commission's Report to the Legislature in response to Act 5, Session Laws of Hawaii 1995, you have decided by a majority vote today to restrict the content of the final document in a manner which will result in an incomplete report being presented to the Legislature. In particular, I understand that the two members holding the minority opinion have been restricted from adding certain materials to the report appendix which respond to materials the majority of the Commission added to the draft report which was distributed for the first time just this morning.

I am very concerned that the Commission render a complete report to the Legislature, fully addressing both sides of this important issue. Any effort to interfere with such a report would not be well accepted. Please see to it that the report is complete, from both sides.

Sincerely,



Joseph M. Souki
Speaker

c: Commissioner Morgan Britt
Commissioner L. Ku'umeaaloha Gomes
Commissioner Lloyd James Hochberg, Jr.
Commissioner Nanci Kriedman
Commissioner Marie A. Sheldon
Commissioner Bob Stauffer

Attachment 1

**PROPOSED AMENDMENTS TO OCTOBER 25, 1995 & CONTINUING MINUTES
Submitted by Marie A. "Toni" Sheldon**

Page 1 After the 10th line, sentence beginning "Ms. Pamela Martin of the ...", add following paragraph:

Ms. Martin distributed a one-page document entitled "Suggested Amendments to the Minutes of October 11-12 As Drafted" to the Commissioners.

Replace the 16th line which begins "Opportunity to review..." with the following:

The Commissioners were given a few minutes' opportunity to review the suggested amendments, and no discussion was held regarding the suggested changes beyond Dr. Stauffer's adding that Sister Chatfield's title on page 11 was not capitalized.

Delete the sentence beginning "Dr. Stauffer added that Sister..."

Page 2 In the 4th line, the word "any" should be "aye".

Page 3 Regarding the paragraph that begins "Mr. Van Dyke discussed various race-oriented cases...", explain where/what "T-9" is and where it can be found.

In the 2d full paragraph which begins "Mr. Va Dyke reviewed the alleged ...", change (2) to read as follows:

(2) create disproportionate incentives to move or remain in Hawaii, costing the state money and distorting the job and housing markets as well as altering the desirability as a visitor destination;

In the same paragraph, change the sentence beginning "Finally, addressing...." to read:

(3) Mr. Van Dyke agrees that the government may set moral standards but thinks it is hard to defend punishing people that don't meet that standard.

Before the paragraph beginning "Mr. Van Dyke presented..." add the following paragraph:

Mr. Van Dyke shared his belief that the procreation argument is a problem because the State has not consistently applied that interest. In fact, Mr. Van Dyke believes the State discourages procreation except as to kids in high school. Mr. Van Dyke does not believe the State can successfully meet the "narrowly tailored" requirement.

Amendment 2

Page 7 In the 2d full paragraph, 5th line, the word "and" should be "by" and the word "their" should be "the" and turn the sentence into two sentences as follows:

Mr. Hochberg tried to confirm with Mr. Van Dyke his position "by" returning to the Baehr decision and "the" belief that same-sex marriage is not part of the collective conscience of Hawaii. Mr. Hochberg cautioned that in light of the history, we don't want to throw out all this information to simply move this forward, and we need to sit down and think it through in a lot greater detail.

Page 9 With regard to the paragraph which beings "Copies of the overhead presentations...", clarify whether these are the items marked "T-9", etc referred to earlier in the minutes.

In line 2, of the 3d full paragraph, the word "start" should be "started".

Page 10 In line 2, the word "woman" should be "women".

In the 3d full paragraph the word "Rohlfing's" should be "Rohlfing"..

Page 11 In the 2d full paragraph, line 1, "so a extending" should be "so extending".

Page 12 Add the following paragraphs:

Mr. Hochberg questioned Mr. Coleman as to the unavailability of information concerning Mr. Coleman's organization under which he presents much if not all of the information he has furnished to the Commission, The Spectrum Institute. Mr. Coleman stated that he has been working on this issue here in Hawaii since the legislative hearings on the issue. Mr. Coleman did not clarify the identity of The Spectrum Institute.

Mr. Coleman suggested that there are five possible actions available to Hawaii: (1) do nothing which he predicts will result in court-ordered same-sex marriage; (2) pass a Limited Domestic Partnership Act which he believes will have the same result as (1); (3) pass a Comprehensive Domestic Partnership Act which he predicts the Court may accept as satisfying the equal protection clause; and (5) eliminate marriage as a civil institution which Mr. Coleman predicts will not happen.

Mr. Hochberg suggested that Mr. Coleman omitted the sixth possible action of passing a constitutional amendment defining marriage as one man and one woman.

Although Mr. Coleman agreed that is a possible action, he declined to add that possibility to his list.

Mr. Gill asked Mr. Coleman to provide the Commission with a draft comprehensive partnership bill.

Page 18 Before the 1st paragraph, add the following paragraphs:

Mr. Daniel P. McGivern testified before the Commission, stating that: "This Commission is not objective. It is a sham, a shibai, a fraud perpetrated on the public. The outcome of the Commission's voting on whether marital benefits should be extended to homosexual and lesbian couples has been known since the Commission was first appointed." Mr. McGivern stated that "the real purpose of the Commission is to hand a favorable report to the legislature, leading to a domestic partnership law in the next legislative session." Mr. McGivern stated that "a domestic partnership law, which recognizes gays as a special class, will inevitably lead to same-sex marriage. It is sad that this Commission does not truly represent the community." Mr. McGivern stated that this is the first time he ever appeared before a body, knowing that what he and others have to say makes no difference. He stated that "IF anything is said that is contrary to furthering the homosexual-lesbian agenda, it will be disregarded by the majority of this commission." A copy of Mr. McGivern's testimony is attached hereto.

Mely McGivern testified that in her view, the Hawaii Nei where she was born and raised is very close to becoming the "Sodom and Gomorrah" of the world. She pointed out that we could easily end up with both domestic partnerships and same-sex marriage. She cautioned that what Hawaii does now could have an adverse effect on the whole world. Mrs. McGivern's testimony is attached to these minutes.

Two mothers present with their children testified in opposition to same-sex marriage. One mother said that while she does not judge them, she is opposed to special rights for same sex couples, such as military housing rights. She said that she believes they are doing this for free rent and the government will be paying for these rights. The second mother testified that her opposition is Bible-based and that the state motto used to stand for something in the past.

After the reconvening paragraph but before "III", add the following paragraphs:

Mr. Hochberg called the Commission's attention to the imbalance of the minutes.

Mr. Gill stated: "We have to be polite and hear what everyone has to say."

Mr. Hochberg moved that the materials presented by Mr. Ghali and other speakers be listed in the minutes. Ms. Sheldon seconded the motion and Mr. Stauffer spoke in favor of it. The motion passed with 4 ayes and 3 abstentions.

Mr. Hochberg moved to add the clinical psychologist credential to Dr. Kehoe's name in the October 11, 1995 minutes. The motion failed with 3 ayes and 3 abstentions.

Mr. Hochberg then inquired about the fact that Kalei-Pua who introduced herself as Ku'umeaaloha Gomes' domestic partner was not identified as such in the minutes, but Ms. Gomes declined to have the minutes reflect such identification.

Mr. Hochberg then moved that the minutes reflect that Ms. Martin produced a written transcript of portions of the audio tape from the September 27, 1995 minutes and they were discussed. Dr. Stauffer, speaking against this motion, stated that he understood changes were to be presented in writing ahead of time. Whereupon Mr. Gill questioned Mr. Hochberg as to the amount of changes he had to present. Mr. Hochberg asked to be permitted to present those he had submitted in writing. After much discussion, Mr. Gill asked Mr. Hochberg to restate his motion, and Dr. Stauffer described that motion as a lengthy one concerning Ms. Martin's transcript.

Mr. Hochberg moved to have his changes incorporated in the minutes, but Mr. Gill stated that what Mr. Hochberg wants is a transcript and he won't get it. Mr. Gill stated: "We have to move on and not spend time going over this."

Dr. Stauffer then moved to suspend discussion on the minutes and send out a new written transcript. Mr. Hochberg spoke against the motion stating that majority had an agenda to railroad this through. Mr. Hochberg pointed out that the policy of review is not established as requiring written proposed amendments and that these (the October 11, 1995) minutes contain the most important testimony on economic matters. Mr. Hochberg noted that failing to review the contents of these minutes diminishes the value of the majority report and makes its contents intellectually dishonest. Mr. Hochberg then moved to handle those amendments he had submitted in writing.

Mr. Gill ruled Mr. Hochberg out of order. Mr. Hochberg appealed the ruling, Ms. Sheldon joined in that appeal. Mr. Hochberg's appeal was defeated, and Mr. Gill refused to permit Mr. Hochberg to put his written changes on the record.

Mr. Gill informed Mr. Hochberg that his right to bring the amendments to the October 11, 1995 Minutes was being reserved and he could bring up those amendments at a later time.

Page 19 After the 3d paragraph, add the following paragraphs:

Mr. Hochberg moved to table all discussion on substantive material until the Commission looks at the statutes it received on October 25, 1995, analyzes the LRB attorney's report of the definitions of those statutes, and actually determines whether there are any major legal and economic benefits in those statutes which the Commission needs to address.

Ms. Sheldon inquired as to the fact that Dr. Stauffer's memos address things the Commission has not discussed. Mr. Gill stated that was not true, that the Commissioners had received a list of the statutes and had time to review them. Ms. Sheldon replied that reviewing the LRB's list is not the same as discussing the statutes.

Ms. Kriedmam inquired as to whether Ms. Sheldon wanted to go through the statutes and determine whether it's a benefit or burden. Ms. Sheldon replied that she does not think we have determined what is a benefit and what is a burden because we do not have a definition.

Dr. Stauffer stated that the motions he intends to bring will address all statutes.

Dr. Stauffer stated that it is vital that we begin defining our terms. He stated that major legal and economic benefits are not defined in the legislation or committee reports so we use normal and customary meaning.

Page 20 In the 3d full paragraph, line 3, after the word "business." add the following sentence:

Mr. Gill stated that we don't want to get wrapped up in a convoluted definition of what we thought the legislature meant if they thought about it at all which is why Mr. Hochberg's motion failed twice early on.

At the end of the 3d full paragraph, add the following paragraph:

Mr. Hochberg sated that major means significant and salient means stands out. Mr. Gill stated that "we're (the majority members of the Commission) are just making sure that Mr. Hochberg doesn't gas the thing to death and try to kill the report."

Page 21 At the end of the 6th paragraph which reads: "Dr. Stauffer again called for the question.", add the following sentence:

Mr. Hochberg moved to amend the motion which is typically then taken up, but the motion was refused by the Chair.

Page 25 Just before the last paragraph on the page, add the following:

Mr. Gill refused to let the motion die for lack of a second.

Page 26 At the end of the 4th paragraph, add the following:

Ms. Sheldon also stated that earlier expert testimony indicated a good chance that the same-sex relationships may fall within exceptions to the full faith and credit clause and may not be recognized by other states.

Page 27 After the 2d paragraph, add the following paragraphs:

In speaking against the motion, Mr. Hochberg called the Commission's attention to the fact that Professor Roth actually said thin in his opinion he didn't think the feds were going to buy domestic partnerships from Hawaii, particularly if they co-exist with marriage. Therefore, misquoting him or taking him out of context does not make the Commission look very well.

Mr. Hochberg stated that the "findings" keep coming up concerning major legal and economic benefits despite the fact that we don't have a definition. Further, as Mr. Van Dyke informed the Commission, pursuant to the Dred Scott decision, one state cannot legislate another's reality. Finally, Mr. Hochberg pointed out that the Chair, at the outset, stated that we would not be addressing these issues.

In paragraph 3, line 2, remove one of the words "was".

Page 29 In line 5 which begins "in a separate motion." add the following at the end of the word "motion" before the period:

"when we get to your section."

At the end of the last paragraph add the following:

Mr. Gill told Mr. Hochberg that "We don't go forward and then go back. It's a way of wasting time." Mr. Hochberg replied that it makes him have to do double work. Mr. Gill stated: "That's very hard, we all have to do work." Mr. Hochberg replied that "We could just deal with it here and you guys could vote it down."

Mr. Gill stated: "You put it in good shape, let everybody look at it and then when your time comes to put up your suggestions, and so forth."

Page 30 At the end of the 4th paragraph add the following paragraph:

Mr. Gill then asked Mr. Hochberg if there was any more time he wanted to waste. Mr. Hochberg stated that it really was not wasting time, it's trying to appropriately address.... Mr. Gill interrupted, saying "We understand exactly what you're doing."

Page 37 After line 2 add the following paragraph:

Mr. Gill stated that: "In other words we are going back to the minutes to wipe out the motion we're supposed to be considering, that's a very interesting suggestion." Whereupon Mr. Hochberg called for the vote on the Motion to Table.

Page 41 At the end of line 3 add the following:

Mr. Gill stated: "We're going back to make another dance here. If I could have the Commission's attention, the motion is to insert the word "salient" in all the particular spots in Benefit No. 1."

At the end of the first sentence in the paragraph immediately after the heading "Memorandum No. 7", add the following:

Mr. Gill asked Dr. Stauffer to explain Substantial Benefit No. 2 which Dr. Stauffer agreed to explain, "if there was a second." Whereupon ... [the motion was seconded by Ms. Kreidman.]

Page 43 After the 4th full paragraph, add the following paragraph:

A discussion ensued between Mr. Hochberg and Mr. Stauffer concerning the health insurance benefits.

In the 6th full paragraph, line 2, change the sentence

that begins "He offered to ..." to read as follows:

Dr. Stauffer said he would get the source of the information for us. Mr. Gill stated that perhaps Dr. Stauffer could give it to Mr. Hochberg for review. Mr. Hochberg voiced concern that in the meantime that information would be left in the report as truth, stating: "That's the trouble with the conduct of these proceedings."

After the 6th full paragraph, add the following paragraph:

Mr. Hochberg then voiced his overall philosophical objection to this whole proposed benefit because.... Whereupon Mr. Gill interrupted accusing Mr. Hochberg of being "focused on delay and causing trouble."

Page 47 In the 1st full paragraph, line 1, after the phrase: "After discussion on the procedure for making motions," add:

which included discussion by Ms. Sheldon of Mr. Gill's continuing refusal to treat Mr. Hochberg with the same courtesy and privilege extended to other Commission members, ... [Mr. Hochberg moved to amend].

In the last line on the page, the word "your" should be "you're".

Page 48 After the 2d full paragraph, add the following paragraph:

Mr. Gill stated that he took the floor away from Mr. Hochberg and he suggested to Mr. Hochberg that these kinds of changes be made when "Mr. Hochberg gets to the point when he wants to submit something." Speaking to Mr. Hochberg, Mr. Gill stated that he thinks "it's much more important that we not allow you to keep jumping in, stirring things up, getting them mixed up and then we don't know what we're doing." Whereupon Mr. Hochberg called for the vote for the third time.

In the 3d full paragraph, right after the words "Dr. Stauffer", insert the word "then" before "cited".

At the end of the 3d full paragraph, add:

Whereupon Mr. Gill said ok.

At the beginning of the 4th full paragraph, delete "Ms." and add the following:

In response to an inquiry from Ms. Kreidman, Mr. ...

[Hochberg reasoned that ...]. Mr. Gill said to insert it in the minutes.

Page 54 In paragraph 2, line 4, after the sentence ending in "those minutes." delete the words "He added that because" and add the following:

Mr. Gill commented that this was Mr. Hochberg's circular motion again, and Mr. Hochberg denied that the motion was circular pointing out that we [the minority Commissioners] actually just learned that ... [there had been ex parte ...].

After the 3rd full paragraph, add the following paragraph:

Mr. Gill suggested that Mr. Hochberg mimeograph this motion and insert it for every topic so we won't have to have her [Ms. Martin] write it all down.

Page 55 After the 2d full paragraph add the following paragraphs:

Mr. Hochberg stated that Dr. La Croix backed away from his written paper when confronted with Dr. Ghali in the room and admitted that he didn't do an economic analysis.

Dr. Stauffer stated that was not his recollection.

Mr. Hochberg pointed out that it's a shame we didn't go over the minutes.

Dr. Stauffer insisted that we have Dr. La Croix's nine-page testimony and that he's never withdrawn or amended it.

Mr. Hochberg stated that the amended testimony came in the day before Dr. Ghali's testimony. He presented the amended testimony before Dr. Ghali presented his testimony. Dr. La Croix did not know Dr. Ghali was going to be at the meeting.

Mr. Gill suggests that if we have something in writing submit it, and Dr. Stauffer said if Dr. La Croix had secretly withdrawn this, Dr. Stauffer is unaware of it.

Change the 4th paragraph to read:

Mr. Hochberg and Dr. Stauffer discussed and disagreed regarding the evaluation of the lump sum distributions and ordinary and accidental death benefits. Dr. Stauffer said he stood by his interpretation.

In the 7th paragraph, line 2, after the words "wished to appeal.", add the following sentence:

Mr. Gill stated that, as usual, Mr. Hochberg was "popping off and causing delay".

Page 57 In paragraph 3, line 2, add the following to the end of the sentence which presently ends "the statute.":

and no statute was identified.

In the last paragraph on the page, line one, after the word "definition" add the word "of"....

Page 58 Paragraph 1, line 3, after the words "major benefit" add the word "because"....

Paragraph 3, change the paragraph to read:

Mr. Hochberg said the economists were telling us the difference between the individual and the community is the "economic value".

In paragraph 5, lines 2 and 3, delete "Mr. Hochberg and Ms. Sheldon voting aye,"

Page 61 In paragraph 4, line 2, the last word "meats" should be "meets".

Page 62 In the 4th full paragraph, line 1, the word "move" should be "moved".

In the 6th full paragraph, lines 2 and 3, the word "hawaiian" should have a capital "H".

In the 7th full paragraph, line 1, 2d sentence, should read "Dr. Ghali "did" not....

In the 7th full paragraph, line 3, the word "hawaiian" should be capitalized.

Page 63 In the 1st paragraph, line 1, the word "hawaiian" should be capitalized.

Page 69 In the 7th paragraph, line 2, the word following the word "that" should be "in" same-sex....

In the 7th paragraph, line 4, the word "staying" should be "stay". Also, at the end of the paragraph before the period add: and the children usually go to the biological parent.

Page 70 In 2d paragraph, line 3, the word "it" should be inserted

between the words "and" and "would".

In 3d paragraph, line 2, the word "know" should be "known".

In 4th paragraph, line 1, the word "in" should be inserted between the words "believes" and "custody".

Change paragraph 6 to read:

Ms. Sheldon believes the only time they would need a parenting agreement is if they were same sex couples, and the parenting agreement would be irrelevant because the child would normally go to the biological parent. If it should be determined that the best interest of the child would be to remain with the non-biological parent, that would happen without a parenting agreement.

Page 73 At the end of the 3d paragraph, insert the following:

are afforded an opportunity to be heard regarding the extremely controversial and important matters before this Commission.

Page 79 In the 1st full paragraph, the sentence "Mr. Hochberg moved that section "b" read "besides....." should be changed to read:

Mr. Hochberg moved that the section at the beginning of Substantial Benefit #8 which begins "besides the central core benefits..." be changed to read "besides the core benefits that come from the power to enforce failed internal commitments..." Ms. Sheldon seconded.

Page 80 In the 4th paragraph, line 1, the word "was" after the word "how" should be deleted.

Page 81 In the 3d paragraph, line 1, the number "9" should be "8".

In the 6th paragraph, line 3, the word "HIT" should be "HIV".

Page 82 In 5th paragraph, line 4, the words "reminded that" should be "reminded the".

Page 84 In 1st full paragraph, line 3, change "Mr. Gill's rules of order did not apply" to "Mr Gill did not change the rules as the commission goes along."

Page 87 In 1st full paragraph, line 1, the word "move" should be "moved".

Page 100 In the 1st paragraph, line 3, the word "than" should be "then".

Page 103 In 1st paragraph, line 1, the word "page" should be deleted.

In 3d paragraph, last line, add the word "say" between the words "didn't" and "it".

In 4th paragraph, line 1, add the word "he" between "if" and "could".

In 4th paragraph, line 2, replace the words "except for" with "even without the" so that the sentence reads: "Ms. Sheldon clarified that even without the religious school, most people believe that the conduct is immoral."

Amendments to the the minutes of 10/25/95

SUBSTANTIVE CHANGES:

Page 9.

Third full paragraph starting "His testimony started..." add at the end of the second to last sentence "that it errs." So it reads, "So, it's only after the point where the opinion finds that there is no fundamental right to same-sex marriage that it errs."

Page 12. - Add to the end of the text the following:

"During Mr. Coleman's explanation of the factual situation versus the legal situation of same-gender "families" in Hawaii, Mr. Hochberg offered that heterosexual unmarried couples with biological children are not recognized as families either because we don't have common law marriage. Mr. Coleman replied that factually, they are still families too, even if the law doesn't recognize them. Ms. Sheldon asked if domestic partners would be included in the domestic violence laws, where if police were called to the scene, one of them would go to jail? Mr. Coleman replied "Naturally. It would be the same."

Mr. Coleman referred to the numerous statutes in the list produced by the Legislative Reference Bureau that indicate that benefits exist and Mr. Hochberg interrupted to say that the Commission has not reviewed the statute list. The Chair asked Mr. Hochberg to allow Mr. Coleman to continue.

Mr. Coleman responded to what he has heard today regarding just keeping the status quo. He pointed out that national statistics of opinion polls reveal that 30% are absolutely against it and would like to re-impose criminal penalties, and there's 30% of the public that support the legalization of same-sex marriage and 40% say that some kind of reform is necessary but they don't feel comfortable with the solution of same-sex marriage. Mr. Hochberg interpreted Mr. Coleman's 30-30-40 breakdown to make him appear in the middle, and stated that no one in Hawaii has suggested criminalizing sodomy. Mr. Coleman clarified that in national polls those people that are christian conservatives support criminalization of homosexual relationships. Mr. Coleman quoted a Los Angeles Times poll where one of the questions asked was how do you label yourself? Mr. Coleman said that he would provide the exact poll when he returned to the mainland.

When Mr. Coleman had finished his presentation, Mr. Hochberg suggested that there could be another suggested action on the

Attachment 3

list that would make it very clear that Baehr v. Lewin is overturned and that would be a constitutional amendment that prohibited any marriage except between one man and one woman. Mr. Coleman agreed that would be sixth option, but he commented that he did not believe the votes were there in the Legislature for that option. Mr. Britt offered that there could be a federal Constitutional amendment, but that isn't going to happen either.

Dr. Stauffer, referred to one of his articles where he stated there are one thousand statutes that are driven by state-issued marriage certificates and as the Commission does not have the time or money to investigate this, do you have an article where these are enumerated? Mr. Coleman clarified that there are 1499 hits under a westlaw search of marriage and spouse and further clarified that most likely the figure is closer to hundreds because one statute may use the terms more than once.

The Chair asked Mr. Coleman if he had a format for the comprehensive domestic partnership law and Mr. Coleman volunteered to send his recommendations upon return to the mainland, and it would be less than about two pages.

He volunteered that his domestic partner and he will be moving to the Big Island in January, and that he actually has a stake in the outcome. Mr. Hochberg commented that brings to mind several questions, how long have you been working on this issue in Hawaii? Mr. Coleman replied that he has been following the issue from the summer of 1993, when Representative Tom held informational hearings on the neighbor islands. He attended the one on the Big Island while on vacation. Mr. Hochberg asked how come he couldn't find any information on Spectrum Institute or yourself as an author? The only listing was an interview published in the Los Angeles Times in September of 1981, is your organization a ghost and is this just a pet project of yours after 22 years of lawyering? Mr. Coleman responded, "No." He further stated that the Spectrum Institute has worked with the State of California on these and other similar issues. Mr. Hochberg said he could do the same thing in Hawaii, incorporate and have a pet project, just be honest. Mr. Coleman stated that he could not vouch for Mr. Hochberg's search, and continued to say that the Spectrum Institute has two primary projects. Ms. Kriedman interrupted, stating that she did not feel comfortable having Mr. Coleman substantiate his organization. Dr. Stauffer reminded the Commission that Mr. Coleman has travelled from the mainland at no cost to the Commission to provide his testimony and that we should respect that, even if the Spectrum Institute is not a big organization. Mr. Coleman confirmed that it is a small non-profit organization. Mr. Hochberg disagreed with Dr. Stauffer and stated that it is his right to know, and further stated he believed the Commission didn't care because Mr. Coleman's testimony fit into the majority's agenda.

Mr. Hochberg asked if Mr. Coleman if he was familiar with Martine Rothwell, she wrote a book called the Apartheid of Sex? Mr. Coleman was not. Mr. Hochberg asked if Mr. Coleman's view of full equality was similar to hers? He stated her position to be: Martine Rothwell was born Martin Rothwell, after being married and having two kids and a career as a lawyer for twenty years and making a lot of money in satellite law, got a little bored. He and his wife thought it would be interesting to live the second half of their lives as a same-sex couple and he went and got a sex-change operation. Now the ABA parades them around as a lesbian couple. Is that the goal of full equality? Mr. Coleman responded that under current law if someone has a sex-change operation they are treated..Mr. Hochberg interrupted to say that was not his question, he clarified that his question was is your institute, your movement that is seeking the full equality, that is what we're talking about? Mr. Coleman replied he thought it sounds like that's what Mr. Hochberg was talking about. The Chair asked Mr. Hochberg to clarify his question.

Mr. Hochberg continued, if you have domestic partnership and two men are in prison, how do you deal with that problem, are they allowed to have domestic partnership marital relations together? They are allowed to have relations none of the other heterosexual prisoners do. Mr. Coleman disagreed. As Professor Van Dyke said with regard to prison security, there are more strict guidelines that are allowed to keep order. Criminals are treated differently.

Mr. Hochberg confirmed that Mr. Coleman is suggesting a simple 2-page piece of legislation stating why this is a good idea and the domestic partnership status equals the "spouse" status wherever they appear in the Statutes. Mr. Michaels, the First Deputy Attorney General said when he was here that that law would be unconstitutional vague and you would have to change every statute. Mr. Coleman replied that the legislature can do that. Simply reference those statutes, if you have to reference the specific statute you just do it.

Both Mr. McGivern and his wife agreed to testify in time for a break at noon. He read his testimony that summarizes that he believes that he didn't believe that any testimony received by the Commission would sway their opinions or change the ultimate result that would lead to domestic partnership law. His written testimony is attached.

Mely McGivern stated that she was a guest of Toni Sheldon and feared that her birthplace is close to becoming a Sodom and Gommorah of the World. She believes that the action of the Commission could lead to same-sex marriage or domestic partnership. Her written testimony is attached.

There were two comments from the public. The first speaker was Laurie McNamara. She stated that she didn't judge lesbians but I believe that if these laws are passed, you'll have people doing it for financial benefit, for example, military housing and people with children from previous marriages will get together because it will be a lot cheaper and the government will pay for it. It will be very expensive.

The second speaker was Sherry Silva. She stated that she didn't have any specific reasons other than she was Christian and didn't think it was right. She quoted the State motto and added that it used to mean something. She did not want to impose the death penalty on people who entered into this kind of relationship but she did not approve and felt that being responsible for her children, she would find it difficult to have her children play with the children of same-sex couples. She commented that she wanted a moral environment for her kids.

Subject: Commission votes for same-sex marriage r
Date: 12/11 06:36 PM ET

Subject: Commission votes for same-sex marriage rights

>Return-Path: <marriage-owner@abacus.oxy.edu>
>Date: 09 Dec 95 14:04:49 EST
>From: Morgan <71020.1564@compuserve.com>
>To: Bob Stauffer <rstauffer@mcimail.com>, Charles Baldwin
<chasba@tenet.edu>,
> "Frank's CompuServe" <72000.3631@compuserve.com>,
> "INTERNET:KLewis@ix.netcom.com" <KLewis@ix.netcom.com>,
> Kuulei Ihara <kuulei@bishop.bishop.hawaii.org>,
> Marriage List <marriage@abacus.oxy.edu>,
> Richard Curry <76263.1714@compuserve.com>,
> Roger Takabayashi <roger_takabayashi@dole.doe.hawaii.edu>
>Subject: Commission votes for same-sex marriage rights
>Sender: marriage-owner@abacus.oxy.edu
>Precedence: bulk

>
> News You Can Use

>>From the Commission on Sexual Orientation and the Law

>
>Well, it shouldn't be too surprising to those of you who have been keeping
up
>with the issue: the Commission on Sexual Orientation and the Law FINALLY
voted
>to accept the report of the Commission on December 8, 1995. This is a day
later
>than originally planned.

>
>On December 7, Jim Hochberg, Rutherfordite (rhymes with "sodomite"), was
able to
>stall the vote citing a need to "review the report that we've never seen
until
>just this afternoon." Of course we've all had the draft Report since
November

>27. It turns out this was a ploy for him to go to Joe Souki, the man who
>appointed him to the Commission and Speaker of the House of
Representatives, and
>cry over the fact that the Chair, Tom Gill, would not let him add ANOTHER 25
>page appendix to the report. This was well after the deadline for the
>introduction of new materials to be included in the Report had passed. The
>proposed appendix was mostly material by long-time anti-gay propagandist
Charles
>Socarides.

>
>Speaker Souki dashed off a letter to members of the Commission admonishing
them
>for not making a "complete report" and thereby questioning its ultimate
>credibility. This effort by Hochberg to discredit the Report and the
Commission
>has been consistent with his strategy all along.

>
>At the December 8 meeting we came down 5 to 2 to endorse the findings and

Attachment 4

>recommendations of the Report after Hochberg and Sheldon haggled (again) over
>how there were "really two reports" and objected to how their entries in the
>Table of Contents had been reduced from nearly a page to one line: Minority
>Opinion.

>On a more cheerful note Pam Martin, our Legislative Reference Bureau staff
>member, showed us a sample of how the final bound copy of the report would
look.

>After the printing job goes out to bid, the final copy will have a run of
only

>500 copies (so get your order in now). It will be soft bound and have a
(gasp!)

>lavender cover. Pam said that was the only color they hadn't used for a
report

>cover yet so we were stuck with it. I know this will be a big
disappointment

>for many ;-)

>If you are interested in copies of the Report you should contact:

>Legislative References Bureau

>State Capitol

>415 S. Beretania Street

>Honolulu, HI 96813

> (808) 587-0662

>or FAX:

> (808) 587-0681

>It's the perfect holiday gift (albeit Christmas for some and Halloween for
>others).

>I would like to thank all of you who have given your support to the
Commission

>to ensure that promise of America, freedom and justice for all, can come a
>little closer to reality.

>Respectfully,

>Morgan Britt, Commissioner (mbritt@pixi.com)

>State of Hawaii,

>Commission on Sexual Orientation and the Law

>*****

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>To send a message to the entire list "marriage", email
marriage@abacus.oxy.edu

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