

# **JOURNAL**

**of the**

**HOUSE OF REPRESENTATIVES**

**of the**

**SIXTEENTH LEGISLATURE  
STATE OF HAWAII**

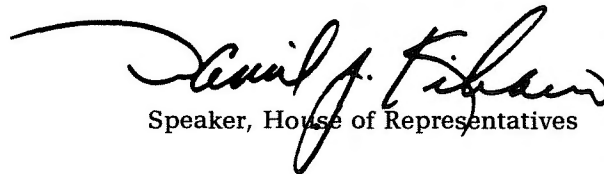
**SPECIAL SESSION OF 1991**

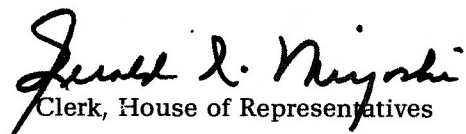
**Convened Monday, June 24, 1991**

**Adjourned Friday, June 28, 1991**

## CERTIFICATE

*We hereby certify that the minutes for each day's session as appears in this House Journal are true and correct and that the original copies have been duly signed by the Speaker and Clerk of the House of Representatives and are on file in the Archives of the State of Hawaii.*

  
Speaker, House of Representatives

  
Clerk, House of Representatives

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THE  
SIXTEENTH LEGISLATURE  
STATE OF HAWAII  
SPECIAL SESSION OF 1991  
JOURNAL OF THE HOUSE

FIRST DAY

Monday, June 24, 1991

The House of Representatives of the Sixteenth Legislature of the State of Hawaii, Special Session of 1991, was called to order at 11:10 o'clock a.m. by the Honorable Daniel J. Kihano, Speaker of the House of Representatives, in accordance with the following Proclamation:

"THE SIXTEENTH LEGISLATURE  
State of Hawaii  
State Capital  
Honolulu, Hawaii

To the President of the Senate and  
the Speaker of the House of Representatives

Your petitioners, members of the Senate and the House of Representatives of the Sixteenth Legislature of the State of Hawaii, respectfully request that a special session of the Sixteenth Legislature be convened at 11:00 o'clock a.m., on Monday, June 24, 1991, for a period of five legislative days.

The purpose of said special session shall be to amend the laws of the State of Hawaii relating to Administrative License Revocation.

Signed by Senators Aki, Blair, Cobb, Crozier, George, Holt, Ikeda, Iwase, A. Kobayashi, B. Kobayashi, Levin, Matsuura, McCartney, Mizuguchi, Nakasato, Reed, Solomon, Tungpalan and Yamasaki.

Signed by Representatives Alcon, Amaral, Apo, Bainum, Bunda, Cachola, Chun, Duldulao, Fukunaga, Hagino, Hashimoto, Hirono, D. Ige, M. Ige, Ihara, Isbell, Kawakami, Lee, Metcalf, Okamura, Oshiro, Santiago, Say, Shon, Souki, Stegmaier, Tajiri, Tam, Taniguchi, Thielen, Tom, Ward, Yonamine, Yoshimura and Young."

"PROCLAMATION

We, Richard S.H. Wong, President of the Senate, and Daniel J. Kihano, Speaker of the House of Representatives, of the Sixteenth Legislature of the State of Hawaii, pursuant to the power vested in us by Section 10, Article III of the Constitution of the State of Hawaii, and at the written request of two-thirds of the members to which each house is entitled, do hereby convene the Special Session of 1991 of the Sixteenth Legislature of the State of Hawaii for a period of five (5) days, excluding Saturdays and Sundays, commencing on Monday, June 24, 1991.

/s/ Richard S.H. Wong  
RICHARD S.H. WONG  
President of the Senate

/s/ Daniel J. Kihano  
DANIEL J. KIHANO  
Speaker of the House of Representatives

The Divine Blessing was invoked by Dr. Charles Jinks, Director of the Wayland Baptist University, after which the Roll was called showing all members present with the exception of Representatives Arakaki, Baker, Bellingier, Hiraki, Ihara and Tatibouet, who were excused.

At this time, the following introductions were made to the members of the House:

Representative Morihara introduced Jim and Grisselle Nance and their daughter, Jamie, from Moscow, Idaho. "These two are educators from Moscow and, interestingly enough, they are part of a school that has a class average of 96 percentile in mathematics, and it's a form of education called 'classical,' and it's something that possibly the Legislature could look into next session."

Representative Marumoto introduced Mrs. Anita DiMauro, "an old friend of mine. She's associated with Mothers Against Drunk Drivers (MADD) and past president of the organization."

**ORDER OF THE DAY**

**ANNOUNCEMENTS**

Representative O'Kieffe rose on a point of personal privilege and stated:

"Mr. Speaker, the Republican Caucus has called for and has been very supportive of the special session concerning this DUI situation, and this is an extremely important bill. We are very grateful that we have come back together to address this very serious situation. Our caucus had planned to be here a hundred percent but Representative Tatibouet had a family commitment out of state and could not be here.

"And just so there's no confusion for the rest of the week, would you be kind enough to give us the order of dress."

The Chair answered:

"The dress code is aloha attire. Sorry, we didn't inform you prior to today."

Representative O'Kieffe then thanked the Chair.

Representative Bainum: "Your Committee on Housing has formed three subcommittees, one of which is Finance. We will be meeting tomorrow at 1:00 p.m. in Room 310. I would like to invite any interested legislator to attend."

Representative Taniguchi: "Your Majority Caucus will be holding a meeting right after session today in the Majority Caucus Room."

Representative Ward then rose on a point of personal privilege and stated:

"We are indeed fortunate to be here today to discuss a very important piece of legislation that will make our streets safer, particularly from those who drink and drive. You and the leadership should be commended for calling us back.

"My point however is that, as we send the message to the community, are we also listening to the message that they are sending us? My question is, Mr. Speaker, if we heard what the public has said to us in return for our calling this special session -- have we not heard the voices that said there are 51 members in the House of Representatives, not sixteen, or the franchised chairpersons? Had we not also heard that the public is saying that a committee system that allows only chairman to make a decision is an affront to the democratic process. . ."

Representative Alcon then rose on a point of order and stated:

"We don't have a bill before us so why should we debate? Let's wait for the bill and then we can say everything that we want to say. . ."

The Chair interrupted and stated:

"Representative Alcon, he is stating his point of personal privilege."

Representative Alcon stated:

"Mr. Speaker, he is referring to a bill. . ."

Representative Ward interrupted and stated:

"I'm not referring to a bill, I'm referring to a system, Representative."

At this point, Representative Souki asked for a recess and at 11:20 o'clock a.m., the Chair declared a recess, subject to the call of the Chair.

Upon reconvening at 11:25 o'clock a.m., the Chair stated:

"Representative Ward, the Chair will call you out of order at this time. You have not been personally aggrieved on this floor and the subject that you're bringing up is not germane to what is being discussed this morning so I will call you out of order."

#### ADJOURNMENT

At 11:26 o'clock a.m., on motion by Representative Apo, seconded by Representative O'Kieffe and carried, the House of Representatives adjourned until 11:00 o'clock a.m. tomorrow, Tuesday, June 25, 1991.

**SECOND DAY****Tuesday, June 25, 1991**

The House of Representatives of the Sixteenth Legislature of the State of Hawaii, Special Session of 1991, convened at 11:10 o'clock a.m., with the Speaker presiding.

The Divine Blessing was invoked by Brother Franklin Pao, S.M., of St. Louis School, after which the Roll was called showing all members present with the exception of Representatives Arakaki, Baker, Bellinger, Hiraki, Hirono, Okamura, Peters, Takamine and Tatibouet, who were excused.

The Clerk proceeded to read the Journal of the House of Representatives of the First Day.

On motion by Representative Apo, seconded by Representative O'Kieffe and carried, reading of the Journal was dispensed with and the Journal of the First Day was approved.

At this time, the following introductions were made to the members of the House:

Representative Metcalf introduced his sister and brother-in-law, Jan and Kermit Swartz, and their children, Christian and Katrina, visiting from Washington State.

Representative Morihara introduced Cheryl Nakasone, an educator, who was seated in the gallery.

**ORDER OF THE DAY****ANNOUNCEMENTS**

Representative Taniguchi: "There will be a Majority caucus at 9:00 o'clock tomorrow morning in the Majority Caucus Room."

Representative O'Kieffe: "There will be a Minority caucus at 10:30 a.m. tomorrow."

**ADJOURNMENT**

At 11:15 o'clock a.m., on motion by Representative Apo, seconded by Representative O'Kieffe and carried, the House of Representatives adjourned until 11:00 o'clock a.m. tomorrow, Wednesday, June 26, 1991.

**THIRD DAY****Wednesday, June 26, 1991**

The House of Representatives of the Sixteenth Legislature of the State of Hawaii, Special Session of 1991, convened at 11:17 o'clock a.m., with the Speaker presiding.

The Divine Blessing was invoked by Patricia Mumford of the Hawaii Council of Churches, after which the Roll was called showing all members present with the exception of Representatives Baker, Bellinger, Hiraki, Hirono, Peters, Tatibouet and Yonamine, who were excused.

The Clerk proceeded to read the Journal of the House of Representatives of the Second Day.

On motion by Representative Arakaki, seconded by Representative O'Kieffe and carried, reading of the Journal was dispensed with and the Journal of the Second Day was approved.

At this time, the following introductions were made to the members of the House:

Representative Young introduced "some very distinguished visitors that are in our gallery" -- Paula Mantel, founder of Global Discovery, and Dr. Sergey Rubik, a psychologist at the Academy of Sciences of the Soviet Union. "We had planned to have five Soviet youth ambassadors here in the gallery and they were unable to make it. There are twenty in total Soviet youth ambassadors in Hawaii at this time meeting with twenty Hawaii youths, and they were in a very deep and intense discussion last night and are continuing it at this time so they were not able to break to be here. They are here for the 1991 Hawaii/Soviet Heart-to-Heart Exchange at the International Youth Congress."

Representative Alcon then rose and welcomed Representative Arakaki home from Okinawa.

Representative Arakaki rose and thanked the Chair.

**ORDER OF THE DAY****ANNOUNCEMENTS**

At 11:24 o'clock a.m., Representative Taniguchi asked for a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 11:50 o'clock a.m.

Representative Amaral: "Your Committee on Judiciary will be holding a public hearing this afternoon at 2:00 p.m. in Room 410 to consider a Senate Bill relating to driving under the influence."

Representative Amaral then requested waiver of the 48-hour notice requirement to hear S.B. No. S1-91, SD 1, and the Chair "so ordered."

Representative Taniguchi: "Your Majority Caucus will hold a short Majority caucus tomorrow at 10:30 a.m."

Representative Arakaki moved to keep the Journal open until midnight this legislative day and that all Senate Bills received from the Senate pass First Reading by title, seconded by Representative O'Kieffe and carried.

At this time, the Chair referred S.B. No. S1-91, SD 1, to the Committee on Judiciary.

On motion by Representative Arakaki, seconded by Representative O'Kieffe and carried unanimously, the House authorized the Clerk to receive a Standing Committee Report on a Senate Bill.

At 11:52 o'clock a.m., the House of Representatives stood in recess for the purpose of receiving a Senate Bill and a Standing Committee Report.

**SENATE COMMUNICATION**

Sen. Com. No. 1, transmitting Senate Bill No. S1-91, SD 1, entitled: "A BILL FOR AN ACT RELATING TO ADMINISTRATIVE LICENSE REVOCATION," which passed Third Reading in the Senate this legislative day, June 26, 1991, was received by the Clerk and placed on file.

**STANDING COMMITTEE REPORT**

The following Standing Committee Report (Stand. Com. Rep. No. S1-91) was received in the Clerk's Office up until 12:00 o'clock midnight this legislative day in accordance with the motion made earlier, and in accordance with Article III, Section 15 of the Constitution of the State of Hawaii, printed copies of Senate Bill No. S-1-91, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ADMINISTRATIVE LICENSE REVOCATION," were made available to the members of the House at 10:20 o'clock p.m.

**ADJOURNMENT**

At 12:00 o'clock midnight, the House of Representatives adjourned until 11:00 o'clock a.m. tomorrow, Thursday, June 27, 1991.

**FOURTH DAY****Thursday, June 27, 1991**

The House of Representatives of the Sixteenth Legislature of the State of Hawaii, Special Session of 1991, convened at 11:11 o'clock a.m., with the Speaker presiding.

The Divine Blessing was invoked by Reverend Stanley Bain of the Harris United Methodist Church, after which the Roll was called showing all members present with the exception of Representatives Amaral, Apo, Baker, Bellinger, Hashimoto, Hiraki, Hirono, Ihara, Morihara, Peters, Takamine, Tatibouet and Yoshimura, who were excused.

The Clerk proceeded to read the Journal of the House of Representatives of the Third Day.

On motion by Representative Arakaki, seconded by Representative O'Kieffe and carried, reading of the Journal was dispensed with and the Journal of the Third Day was approved.

At this time, Representative Thielen introduced to the members of the House her son, Peter Michael Thielen and her grandson, Kalani Michael, who were seated in the gallery.

**ORDER OF THE DAY****STANDING COMMITTEE REPORT**

Representative Metcalf, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. S1-91) recommending that S.B. No. S1-91, SD 1, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Metcalf, seconded by Representative Arakaki and carried, the report of the Committee was adopted and S.B. No. S1-91, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ADMINISTRATIVE LICENSE REVOCATION," passed Second Reading and was placed on the calendar for Third Reading on Friday, June 28, 1991.

**ANNOUNCEMENTS**

At this time, Representative Horita, on behalf of the members of the House, extended birthday greetings to Representative Chun, and Representative Santiago presented her with a pikake lei.

Representative Chun rose and thanked the Chair.

Representative Taniguchi: "Your Majority Caucus will have a Majority caucus tomorrow at 9:00 p.m. in the Majority Caucus Room."

At 11:21 o'clock a.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 11:25 o'clock a.m.

At 11:26 o'clock a.m., the House of Representatives stood in recess, subject to the call of the Chair.

**ADJOURNMENT**

At 12:00 o'clock midnight, the House of Representatives adjourned until 9:30 o'clock p.m. tomorrow, Friday, June 28, 1991.



## FIFTH DAY

Friday, June 28, 1991

The House of Representatives of the Sixteenth Legislature of the State of Hawaii, Special Session of 1991, convened at 9:52 o'clock p.m., with the Speaker presiding.

The Divine Blessing was invoked by Representative Ezra R. Kanofo, after which the Roll was called showing all members present with the exception of Representatives Baker, Bellingier, Hirono, Horita, Takamine and Taibouet, who were excused.

The Clerk proceeded to read the Journal of the House of Representatives of the Fourth Day.

On motion by Representative Arakaki, seconded by Representative O'Kieffe and carried, reading of the Journal was dispensed with and the Journal of the Fourth Day was approved.

At this time, the following introductions were made to the members of the House:

Representative Marumoto introduced Dr. Robert DiMauro, husband of Anita DiMauro; and Carol McNamee and her husband, Dr. Philip McNamee, and thanked Carol for "being the driving force behind this bill."

Representative Young introduced her daughter, Nani Daniels, marketing manager with Corporate Headquarters (Apple Computers) in Cupertino, California, and son-in-law, James Overmeyer; and her husband, Dr. Everett Kleinjans.

Representative Arakaki introduced Mr. Jake Manegdeg, a former colleague and "a staunch leader in the Filipino community."

## ORDER OF THE DAY

## INTRODUCTION OF RESOLUTIONS

The following resolutions (H.R. Nos. S1-91 and S2-91) were read by the Clerk and were disposed of as follows:

H.R. No. S1-91, authorizing the Speaker to approve the Journal of this House of any legislative day being compiled as of the 5th day, was jointly offered by Representatives Apo, Taniguchi, Arakaki, Anderson and O'Kieffe.

On motion by Representative Apo, seconded by Representative Taniguchi and carried, H.R. No. S1-91 was adopted.

H.R. No. S2-91, authorizing and directing the Committee on the Journal to compile and print the Journal of the House of Representatives, First Special Session of 1991, pursuant to Rule 18 of the Rules of Procedure adopted by this body, was jointly offered by Representatives Apo, Taniguchi, Arakaki, Anderson and O'Kieffe.

On motion by Representative Apo, seconded by Representative Taniguchi and carried, H.R. No. S2-91 was adopted.

## SUSPENSION OF RULES

On motion by Representative Arakaki, seconded by Representative O'Kieffe and carried, the rules were suspended for the purpose of considering a bill on Third Reading on the basis of a modified consent calendar.

## THIRD READING

## S.B. No. S1-91, SD 1, HD 1:

Representative Metcalf moved that S.B. No. S1-91, SD 1, HD 1, having been read throughout, pass Third Reading, seconded by Representative Amaral.

Representative Metcalf rose to speak in favor of the bill, stating:

"Mr. Speaker, the bill before us this evening now makes complete a law designed to protect the safety of all who travel Hawaii's roads and highways. As such, this bill does not only represent the work of this Special Session. Rather, it is the starter for that comprehensive piece of legislative machinery embodied in Act 188-90, Hawaii's new Administrative Revocation Act.

"This measure, when viewed as a unity with Act 188-90, represents a workable and balanced approach towards improving the safety of our highways and respecting individual rights -- both of the accused and of the innocent users of our roads. As such, it incorporates positions held by protagonists with differing thoughts on how the Administrative Revocation should be implemented. The result is, I believe, a good bill and all who contributed to this process should be commended for their efforts.

"To say that there has been much discussion and debate on this issue would be somewhat of an understatement, Mr. Speaker. To suggest that this evening's vote will signal the end of that discussion would be erroneous and unfair.

"I do firmly believe, however, that with the passage of this measure, we can leave tonight knowing that if our experience parallels that of the other thirty jurisdictions who have enacted similar laws, we will have saved human lives and untold human suffering.

"In closing, Mr. Speaker, I would like to acknowledge several people deserving of special recognition. First, the Committee members who have suffered through this long and arduous process -- some of our members for as long as seven or eight years; our Judiciary Committee Clerk, Mr. Eric Hamakawa, who flew back from the mainland to attend to the logistical requirements of the Committee this Special Session; Mr. Owen Tamamoto who served as the Committee's attorney during 1990 and returned during this past session, in the evenings and after work and during the Special Session, to see this particular job through; Mr. Paul Yuen, also an attorney for the Committee in 1990; and staff members Garrett Kashimoto and J Yoshimoto. What makes their recognition so appropriate, Mr. Speaker and members, is the fact that their efforts were freely volunteered. Their time spent here has been at the cost of time that could have otherwise been spent with family, friends, and loved ones.

"Finally, Mr. Speaker, I believe recognition is also due to all those who participated in the debate and the discussions as well as the staffing of this Special Session, noting that members of the House Majority Research staff also assumed police duties and provided the guard services for the entrance to the Capitol. All of this, Mr.

Speaker, all of these extra efforts to keep the cost down and allow this piece of legislation to move forward as it should, I think, merits all our commendation.

"With that, thank you very much."

Representative Amaral then rose to speak in favor of the bill, stating:

"Mr. Speaker, I support this measure because it essentially restores the implied consent provision that provides the needed safeguards for our community. It provides for the protection of the people of the State of Hawaii at a time when the increased numbers of cars and the increased numbers of drivers call upon us to necessitate additional responsibilities on our drivers with respect to the congestion before us.

"I believe that this measure is needed; I believe that this measure is important. I believe also, however, that this measure is somewhat anticlimactic because it essentially represents the position of the House that we came to in Regular Session.

"But I still celebrate this event today and I celebrate this Special Session, and I celebrate it for three essential reasons. The primary, and I think most essential reason, is that the people of Hawaii trusted sufficiently in the political process, to continue to put the pressure on their political representatives to come together and to remedy this problem. At a time when political cynicism has reached almost cancerous proportions, our people continue to trust in the system, to trust that their calls and their letters, in fact, will make a difference and that the system, in fact, did respond to it, and we came together to remedy this. This is reason enough for celebration.

"Further, Mr. Speaker, I celebrate that the House leadership, at great political risk, would come together and call us together to remedy this problem, to spend the needed additional funds, to spend the additional time, to put the additional pressure on members here today for the sake of public good and for the sake of public safety, is reason also for celebration.

"Finally, Mr. Speaker, I celebrate the fact that I happen to work as vice chair under Chairman Metcalf who has continued throughout the Regular Session, throughout the interim, and throughout the Special Session, to hold a clear vision of the needed public policy, the need for the protection of public safety and public good in the face of a great deal of stress, personal attack, political pressure, and whose conduct is truly an example of exemplary leadership and statesmanship and honorable conduct. It is with a great deal of pride that I serve under the tutelage of this individual.

"Mr. Speaker, we have reinserted the implied consent as we were called upon to do and it is reasonable and intelligent to do so. We have finally passed a measure that will assure greater public safety and we hope that the receiving chambers will continue to exert wisdom and courage and agree to this measure for the sake of the public good, for the sake of the public welfare, for the sake of the public safety.

"Thank you, Mr. Speaker."

Representative Thielen then rose to speak in favor of the bill, stating:

"I would like to thank the House leadership. I would particularly like to thank Chairman Metcalf and Vice Chair Amaral for all of their hard work and their guidance and their leadership and their perseverance in

getting this measure through, really for the second time for us in the House.

"The recent problem with the DUI bill showed that our present system is unresponsive and undemocratic. A single senator must not be allowed to bottle up legislation in committee, and I say that it is time to overthrow the committee chairs' King or Queen system and re-establish democracy in the Hawaii Legislature. A senator represents only 44,000 people out of over a million residents and for that fact, a representative represents only about 21,000. By allowing total control by a legislator of important issues, we, in effect, disenfranchise the vast majority of Hawaii's people. . .

At this point, Representative Apo interrupted and asked for a recess whereupon the Chair declared a recess at 10:09 o'clock p.m., subject to the call of the Chair.

Upon reconvening at 10:10 o'clock p.m., Representative Thielen continued her remarks, stating:

"Thank you, Mr. Speaker.

"Our Committee on Judiciary, I think, has set a very good example as to what should occur. On one very heated issue -- initiative -- the Committee held a vote at the end as to whether or not the bill should pass. We were responsive to the community. Those of us who were in favor of the initiative lost by a narrow margin but the public saw how the members voted and we were open to public scrutiny. This is the way our system should operate. There's been a tremendous non-partisan public outcry against our Committee King and Queen system. We were elected as representatives of the people but none of us were elected to rule. This is a democracy.

"The Mothers Against Drunk Drivers (MADD) and the rest of the people who brought about this Special Session are truly today's revolutionaries who fought successfully to overthrow a monarchy. Long live democracy, and I say that the King and Queen are dead.

"Thank you, Mr. Speaker."

Representative Ward then rose to speak in favor of the bill, stating:

"This is a good bill that we're discussing and hopefully will pass without even one negative vote. The messages that we're sending tonight I think are three.

"The first is, and it's the strongest -- if you drink, don't drive.

"Mr. Speaker, did you know that without this bill, this State would stand alone in the nation as the state with the weakest DUI statute on the books? This would make us the weakest State that drinks the most. If you saw recently, we were one of the top forty imbibers in this country. We also have the dubious distinction of our 15 to 24 year olds dying at a rate which is 56 percent higher than the national average due to DUI. We are wasting our youths on our highways. Fifty-six percent higher -- our 15 to 24 year olds! It's a pretty heavy message.

"This bill sends out two other signals also, Mr. Speaker. The first of those I tried to communicate on Monday and I see my colleague just attempted to say some of that message also and rather than repeat it, I would only say that this Legislature needs to operate a bit more openly and a bit more accessibly. It's not the time to hide behind committee chairs and the sixteen who are good chairs, and I am not speaking to any of the chairmen, we have good chairmen -- good women and

good men. I think we have to examine the system by which 51 are reduced to 16.

"The final message is, those who take drugs and drive -- beware! Right now, those people are out there on the highways with drugs and there's estimations up to thirty to forty percent of the people out there going around erratic are on drugs and not alcohol. This bill doesn't touch them and we can't touch people who are on drugs. This is a step forward. It's a foot in the door for getting those thirty percent or forty percent who are actually inebriated because of drugs.

"In conclusion, Mr. Speaker, it has been a productive and worthwhile ten days. Ten percent fewer deaths should occur on our highways because of this bill. In 1988, there were 149 traffic fatalities -- 58 percent or 86 people killed by drunk drivers. In every state that has passed legislation such as we are about to at this particular moment, they've had a ten percent decrease in the fatality rates and that's what we should be able to expect in Hawaii. Perhaps by next year, Mr. Speaker, ladies and gentlemen, we can feel good about these five days of Hawaiian history when those ten percent, or an extra nine people, who will be alive every year hereafter because of what we're doing this evening.

"Thank you, Mr. Speaker. Thank you, Mr. Metcalf. Thank you, MADD."

Representative Hagino then rose to speak in favor of the bill, stating:

"Mr. Speaker, once the Regular Session came to an end, we were faced with, I think, a lot of fair criticisms that we needed to go back into Special Session to enact a law that we are now about to enact. A number of vested interest groups -- citizens groups -- many of them very well meaning, many of whom I support such as MADD, began to beat the drums to get us into Special Session. The media got into the act, the press got into the act, and I think probably everyday we read some article, we saw some political cartoon urging us to go back into Special Session. In particular, I think the press began to attempt, I believe, to stampede us into a Special Session and made many attempts to, I think, point to one particular senator as holding up the process. So we did go back into Special Session and I am very happy to say that I, too, have supported Chairman Metcalf. I have served under him for four years and I am glad he is finally going to achieve what he has long striven for.

"What got me angry was that on Wednesday, this past Wednesday, I read in the **Advertiser** an editorial by the **Honolulu Advertiser** -- it's in the Wednesday, June 26th edition -- and at the very top of the editorial column is their headline editorial -- 'DUI Law -- are they going a bit too far?' You know, they tried for weeks to bring us to this Special Session. We responded to people, we responded to the criticisms of the media, and all of a sudden, we're in the middle of the Special Session and the **Advertiser** says, hey, maybe they're going too far. After criticizing a particular senator, I find in the middle of the editorial column a statement by the **Advertiser** saying, 'And on another big issue, we find some merit to the arguments by Senator Lehua Fernandes Salling.' Where was that kind of comment in any of the regular reports of the newspaper in the weeks prior to the session? All of a sudden, in the middle of the session, I find the **Advertiser** beginning to change their editorial position. I am very dismayed by that.

"I am in favor of this bill. I have long supported this bill, first as vice chairman under Chairman Metcalf for four years, and certainly this past year and this Special Session as a member of his committee.

"I strongly urge all of you to vote for this bill, but I want the record to show that I consider the conduct of the **Advertiser** to be irresponsible, and I want the record to note that.

"Thank you, Mr. Speaker."

Representative Arakaki then rose to speak in favor of the bill, stating:

"Mr. Speaker, a well-known sports figure was once quoted as saying, 'It ain't over until the fat lady sings.' Thank goodness, our ladies here in the House keep themselves slim and trim. But there is now a realization that all is not over as the strains of Hawaii Aloha fade into memory. If there is a lesson to be learned from this Special Session is that adjournment sine die may mark the close of business but it doesn't mean the Democratic process is like tools which are put away in a little tool box, not to be used again until the next session, nor does it mean that we are the only ones who may use those tools. I suppose when all is said and done, there will be many who will see this is a victory of one point of view over another and to some, as a triumph of a right over might. But we as legislators, as well as our constituency, need to look beyond the single issue perspective of just improving the pending law on the Administrative License Revocation to discover what has really happened.

"What we have experienced perhaps is one of the finest demonstrations of the need for an ongoing conversation of democracy. And while we invite people into this conversation from mid-January to the end of April, the conversation too often ends with the fall of the final gavel and, having watched the transformations of new paradigms in democracy occurring around the world with people demanding a greater role in decision-making empowered by the democratic process, our constituency cannot be denied a similar renaissance. And, no doubt, the legislative session serves the purpose of engaging debate and discussion and our Constitution empowers us to make the wisest decision based on that discussion and debate. But I believe what has been demonstrated is a citizenry assertion, that they reserve the right to have the final say in any decision made in their behalf. It is, after all, the will of the people that should prevail in a democracy.

"If nothing else, perhaps we have demonstrated that indeed democracy is alive and well in the State of Hawaii. We have also demonstrated clearly that more people need to be invited into this conversation of democracy and decision-making. Perhaps, because of what has transpired, there will be a renewal of hope for those who have wanted to participate in the conversation but for some reason was denied or discouraged.

"I share in the words of praise and gratitude to the leadership of both houses, and especially to our Judiciary Committee and our Judiciary Chair and Vice Chair for their perseverance; to the Administration, the news media, the law enforcement community, and especially to the grassroots efforts of organizations such as Mothers Against Drunk Driving (MADD) for taking us to task and bringing about this Special Session. We may be closing the book on this single issue but the journal of object lessons on democracy should always remain open.

"Thank you, Mr. Speaker."

At this time, Representative Apo rose on a point of order and stated:

"Mr. Speaker, just to keep the record straight, I would like the Journal to reflect that I was out of order earlier

when Representative Thielen had the floor and I asked for a recess which was not proper. I would like to thank her for not challenging me on that. I should have risen to a point of order -- I was just trying to avoid having to state the point.

"Thank you."

The Chair then thanked Representative Apo for the clarification.

The motion was put by the Chair and carried, and S.B. No. S1-91, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ADMINISTRATIVE LICENSE REVOCATION," having been read throughout, passed Third Reading by a vote of 45 ayes, with Representatives Baker, Bellinger, Hirono, Horita, Takamine and Tatibouet being excused.

The Chair directed the Clerk to note that S.B. No. S1-91 had passed Third Reading at 10:23 o'clock p.m.

At 10:24 o'clock p.m., Representative Taniguchi asked for a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 10:25 o'clock p.m.

#### ANNOUNCEMENTS

At this time, Representative Anderson rose on a point of information and asked:

"Since the Majority Floor Leader had said that more or less we have to respect the will of the people, I was wondering since we're in session and it doesn't cost anybody anything, and my particular district voted 83 percent in favor of the bingo bill -- does that mean that we can override the bingo bill? I wanted to take a poll but all of my constituents are in Vegas right now so I really didn't get a good consensus on that.

"Thank you."

The Chair answered:

"I believe we've decided on that, Representative Anderson, that we would not override the Governor's veto on the bingo bill."

Representative Anderson then thanked the Chair.

At this time, the following late introductions were made to the members of the House:

Representative Metcalf introduced Mr. Ted Baker, "an attorney and one of the notable people who participated in a very key way in the process of the final culmination of this Special Session act."

Representative Ihara introduced Mrs. Robin Loomis, a resident of Kaimuki and a member of the Neighborhood Board.

#### SENATE COMMUNICATION

Sen. Com. No. 2, informing the House that S.B. No. S1-91, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ADMINISTRATIVE LICENSE REVOCATION," passed Final Reading in the Senate this legislative day, June 28, 1991, was read by the Clerk and placed on file.

#### ADJOURNMENT

Representative Arakaki moved that the House of Representatives of the Sixteenth Legislature of the State of Hawaii, Special Session of 1991, adjourn Sine Die, seconded by Representative O'Kieffe and carried.

At 10:28 o'clock p.m., the Speaker rapped his gavel and declared the House of Representatives of the Sixteenth Legislature of the State of Hawaii, Special Session of 1991, adjourned Sine Die.

**GOVERNOR'S MESSAGE RECEIVED AFTER THE ADJOURNMENT  
OF THE LEGISLATURE SINE DIE**

Gov. Msg. No. 1 informing the House that on June 29, 1991, he signed the following bill into law:

Senate Bill No. S1-91 as Act 1 of the Special Session of 1991, entitled: "RELATING TO ADMINISTRATIVE LICENSE REVOCATION."

## STANDING COMMITTEE REPORT

**SCRep. S1-91                    Judiciary on S.B. No. S1-91**

The purpose of this bill is to improve the pending law on administrative revocation of drivers' licenses (Act 188-90) and to delay the effective date of that law.

Section 13 of Act 188-90 directed the Administrative Director of the Courts ("Director") to report to the 1991 Session of the Legislature as to any further provisions or procedures which should or would be required in order to implement the Act. In addition, the Senate adopted a resolution, S.R. No. 188-90, requesting the Director to form a task force to consult with public and private individuals and groups to assist in the implementation of Act 188-90.

To this end, the Director formed a task force consisting of representatives from the Department of Transportation, Department of Health, the Attorney General's office, the Chiefs of Police of all counties, the Prosecutors' offices of all counties, Mothers Against Drunk Driving, the Public Defender's office, and the Division of Motor Vehicles from the counties of Honolulu and Maui ("Task Force"). The Task Force held many lengthy meetings from July of 1990 and spent many hours preparing for the implementation of Act 188-90.

Many members of the Task Force supported four measures before the 1991 Legislature: H.B. No. 1016 and S.B. No. 1267, which measures proposed amendments of substance and policy; and H.B. No. 608 and S.B. No. 611, which measures proposed procedural amendments and provided funding for the program. The Senate held S.B. Nos. 1267 and 611. The House sent to the Senate H.B. Nos. 608, HD 2, and 1016, HD 1, which bills incorporated most of the substantive and procedural amendments recommended by the Task Force. The Senate transferred some of the substantive provisions from H.B. No. 608, HD 2, to H.B. No. 1016, HD 1, and deleted others. The Senate further amended H.B. No. 1016, HD 1, by, among other things:

- (1) Changing the provisions relating to revocation for refusing to submit to a blood or breath test ("implied consent provisions");
- (2) Requiring the involvement of the prosecutor while not allowing the prosecutor to appeal a decision favorable to the arrestee, and barring all further administrative or criminal proceedings;
- (3) Allowing persons who refuse to take a blood or breath test to be eligible for conditional permits;
- (4) Providing for the setting of administrative hearings automatically, instead of upon the arrestee's request; and
- (5) Providing for the admissibility of administrative proceeding records into criminal proceedings.

The House disagreed with the Senate draft and a Conference Committee was formed. Although a resolution of some of the issues was accomplished, the final conference draft, among other things, failed to reinsert the implied consent provisions omitted from Act 188-90. Your Committee notes that the implied consent provisions were contained in the House and Senate drafts of S.B. No. 1148, 1990 Legislature, but were apparently inadvertently omitted from the final conference draft. This measure reinserts the implied consent provisions and further amends Act 188-90 by:

- (1) Making persons who refuse to take a blood or breath test to be ineligible for conditional licenses;
- (2) Separates administrative revocation proceedings from criminal proceedings by not permitting prosecutors to participate in the administrative process, allowing no appeal of decisions in favor of arrestees, making evidence provided by the arrestee in administrative proceedings inadmissible in criminal proceedings, and allowing criminal prosecution even though the arrestee prevails in the administrative proceedings;
- (3) Providing for scheduling of administrative hearings upon the request of the arrestee, instead of automatically, and allowing the arrestee up to sixty days to request a hearing;
- (4) Allowing police officers to testify by telephone only at the discretion of the Director;
- (5) Delaying the effective date of Act 188-90 for one month, from July 1 to August 1, 1991;
- (6) Requiring applicants to complete each requirement for a new license and pay all applicable fees after revocation;
- (7) Consolidating the Notice of Administrative Revocation and the Temporary Permit;
- (8) Requiring the arrestee to surrender the temporary permit if the arrestee is convicted of criminal charges before the completion of administrative proceedings.
- (9) Permitting the police to return the driver's license to the arrestee if the breath or blood test shows that the arrestee's blood alcohol concentration is below .10;
- (10) Precluding an unlicensed driver or a driver whose license was suspended or revoked from receiving a Temporary Permit;
- (11) Including administrative license revocation decisions in the driver's traffic abstract;

- (12) Not staying administrative revocation pending the outcome of a judicial review of the administrative proceedings; and
- (13) Making technical amendments for purposes of style and clarity.

Your Committee received testimony on this bill from the Attorney General's office, the Public Defender's office, the ACLU, the Hawaii Independent Insurance Agents Association, the Injury Prevention Advisory Committee, the Emergency Nurses Association, the Hawaii Chapter of the American College of Emergency Physicians, Mothers Against Drunk Driving, Kauai Business Council, Hawaii Medical Association, American Academy of Pediatrics, and interested persons and is mindful that the actual implementation of this Act will result in further recommendations for improvements. It is your Committee's intent that the Judiciary maintain statistics on all administrative cases that may also have been processed through the criminal system, including the results and circumstances surrounding those cases, and provide those statistics prior to the 1992 Session, along with recommendations for further refinements to the law.

Your Committee has amended this bill by making technical amendments.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. S1-91, SD 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. S1-91, SD 1, HD 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Hiraki, Hirono and Yoshimura.

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NUMBER AND TITLE	Received Referred	First Reading	Second Reading	Third Reading	Action of Senate	Conference Committee	Final Action	Action of Governor	Further Action	Act No.	Vetoed
SB S1-91 A BILL FOR AN ACT RELATING TO ADMINISTRATIVE LICENSE REVOCATION.	4	4	5	6	9			10		1	

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NUMBER AND TITLE	Offered	Referred	Report of Committee	Adoption
H.R. S1-91 AUTHORIZING THE SPEAKER TO APPROVE THE JOURNAL OF THIS HOUSE OF ANY LEGISLATIVE DAY BEING COMPILED AS OF THE 5TH DAY.	6			6
H.R. S2-91 AUTHORIZING AND DIRECTING THE COMMITTEE ON THE JOURNAL TO COMPILE AND PRINT THE JOURNAL OF THE HOUSE OF REPRESENTATIVES, FIRST SPECIAL SESSION OF 1991, PURSUANT TO RULE 18 OF THE RULES OF PROCEDURE ADOPTED BY THIS BODY.	6			6