

SIXTY-THIRD DAY

Wednesday, April 20, 1977

The Senate of the Ninth Legislature of the State of Hawaii, Regular Session of 1977, convened at 9:00 o'clock a.m., with the President in the Chair.

The Divine Blessing was invoked by Mr. Dennis Segawa of the Senate Sergeant-at-Arms' Staff, after which the Roll was called showing all Senators present, with the exception of Senators F. Wong and Yee who were excused.

The President announced that he had read and approved the Journal of the Sixty-Second Day.

SENATE RESOLUTIONS

The following resolutions (S.R. Nos. 521 to 523) were read by the Clerk and were disposed of as follows:

A resolution (S.R. No. 521), entitled: "SENATE RESOLUTION CONGRATULATING UNIVERSITY OF HAWAII - MANOA ARCHITECTURAL STUDENTS", was jointly offered by Senators King, Chong, Ching, Kuroda, George, Kawasaki, Hara, Young, Taira, Soares, Hulten, Yamasaki, Anderson, F. Wong, R. Wong, Yim, Takitani and O'Connor.

On motion by Senator King, seconded by Senator Yim and carried, S.R. No. 521 was adopted.

A resolution (S.R. No. 522), entitled: "SENATE RESOLUTION EXTENDING CONDOLENCES TO THE FAMILY OF THE LATE PATRICIA STRATTON COX", was jointly offered by Senators Saiki, F. Wong, Yee, Henderson, Leopold, George, King, Chong, Hulten, Soares, Nishimura, Toyofuku, Anderson, R. Wong, O'Connor, Taira, Kawasaki, Young, Takitani, Ushijima, Kuroda, Ching, Hara and Yim.

On motion by Senator Saiki, seconded by Senator Henderson and carried, S.R. No. 522 was adopted.

A resolution (S.R. No. 523), entitled: "SENATE RESOLUTION CONGRATULATING THE KALIHI-PALAMA COMMUNITY COUNCIL SAND ISLAND STATE PARK PLANNING COMMITTEE", was jointly offered by Senators R. Wong, Yim, King, Taira, Kawasaki, Takitani, Hulten, Nishimura, Kuroda, Toyofuku, Chong, O'Connor, Soares, Hara, Ushijima, Ching, Yamasaki, Anderson, Henderson, George, Saiki, Leopold and Young.

On motion by Senator Yim, seconded by Senator Kuroda and carried, S.R. No. 523 was adopted.

STANDING COMMITTEE REPORTS

Senator Yamasaki, for the Committee on Legislative Management, presented a report (Stand. Com. Rep. No. 1237), informing the Senate that Senate Resolution Nos. 513 to 522 and Standing Committee Report No. 1238 have been printed and are ready for distribution.

On motion by Senator Yamasaki, seconded by Senator Henderson and carried, the report of the Committee was adopted.

Senator Takitani, for the Committee on Higher Education, presented a report (Stand. Com. Rep. No. 1238), recommending that Senate Resolution No. 288, as amended in S.D. 1, be referred to the Committee on Legislative Management.

On motion by Senator Takitani, seconded by Senator O'Connor and carried, the report of the Committee was adopted and S.R. No. 288, S.D. 1, entitled: "SENATE RESOLUTION REQUESTING ESTABLISHMENT OF A FOUR-YEAR COLLEGE ON MAUI", was referred to the Committee on Legislative Management.

At 9:14 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 10:25 o'clock a.m.

MATTER DEFERRED
FROM APRIL 19, 1977

Conference Committee Report No. 51 (H.B. No. 892, H.D. 1, S.D. 1, C.D. 1):

Senator R. Wong moved that Conf. Com. Rep. No. 51 be adopted and that H.B. No. 892, H.D. 1, S.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Yamasaki.

Senator O'Connor then rose to speak against the measure as follows:

"Mr. President, as a member of your Conference Committee on House Bill No. 892, H.D. 1, S.D. 1, I can report to this Body that your Conference Committee worked many long hours and, in fact, went for three days over this past weekend without sleep, meeting around the

clock, in an attempt to reach agreement on the measure.

In the late hours of Monday of this week, we believed that an agreement had been reached on all particulars and the bill was turned over to staff members to complete final drafting. The final drafting of this bill was done in the House Finance Committee and the document was delivered to us first thing on Tuesday morning.

In reviewing that document, we discovered that there were some items in Part III of the document under the proviso section which appeared to be in contradiction with the agreements reached over the weekend. More in particular, Section 21 of that Part III on page 13, stated a proviso containing certain treatments under the Medicaid program which had not been agreed to during the conference. More in particular, one of those treatments, was the inclusion of chiropractic treatment in Medicaid which has been an issue long debated in this Body for over ten years and had not been, in any way, debated during the conference, nor was suggested at any time as being part of this particular measure.

There is another proviso, in Section 25, page 15, having to do with HMSA. During this conference, it was agreed, as a conference item, that the Medicaid care in Hawaii and the Medicaid program would continue to be done on a contractual basis with HMSA because the State of Hawaii today does not have the capability of handling that Medicaid program, particularly, the billing and the work with the individual health care provided.

With that agreement in mind, we also agreed with the conferees that a proviso would be included requiring that HMSA report certain matters to the Legislature. That agreement was contained in Section 30.

Section 25 has a proviso which would impose upon HMSA certain unusual and extraneous burdens which they are not today capable of performing. These include such things as reporting food stamps, income maintenance, public housing areas, ethnic compositions, and recipients involved in automobile related cases--all at no cost to the State, but at an additional cost burden to HMSA.

Those of us in conference knew, Mr. President, that the HMSA contract with the State comes up for renegotiation in July of this year. If the proviso contained in Section 25, page 15,

of this bill were to pass, then that would have to be included by the State in the contract given to HMSA in July. We know that HMSA cannot accept such a contract. HMSA, being the only provider in the State capable of running the Medicaid program at this time, would therefore be unable to contract with us in July of this year. Therefore, through the back door, we would have adopted, by this proviso to which no one agreed, what we distinctly agreed to across the bargaining table, namely, that HMSA would continue with this program.

In addition to those provisos mentioned, there are other provisos included in the bill, Sections 26 and 27, on a microwave and communication system that would run the cost of this State to millions of dollars.

Another area is in Section 9, page 8, concerning the staffing for the OMPO, which was never discussed, and, in addition, certain provisions concerning the school-by-school educational program, where the agreement that we believed we had was that the appropriations for EDN 105 were to be made directly to the Superintendent rather than to the individual schools. This is to relieve the political pressure from all in adopting such a program.

Because we believe strongly, Mr. President, that the adoption of these provisos will cost the State unwanted millions of dollars in forthcoming years, particularly, if we lose the contractual ability with HMSA to handle the Medicaid program and have to do it ourselves, and if we put in this microwave communication system.

We therefore believe that these provisions in this budget are of such consequence and having been adopted in such a manner that the budget should be voted down.

Therefore, I urge all members to vote No on this measure.

Thank you, Mr. President."

Senator Anderson spoke in opposition to the measure as follows:

"Mr. President, as a member of the Conference Committee, I confirm what my colleague said in all aspects and all provisos.

It has probably been one of the most difficult conferences we've had in a long time, Mr. President, and it is probably no wonder that

there is some confusion in the end.

Your conferees in the Senate had to sit for untold hours and listen to committee chairmen on the House conferences aside because of their Rule of prior concurrence. We had to sit there for hours listening to philosophy and their approach and we sat there very patiently, Mr. President.

We discussed in every depth and detail the points of contention the Senator mentioned. At no time were some of these matters even discussed or mentioned--at no time over the hour or more that the so-called sub-committee chairmen discussed the bills before the conferees.

In the past, we have always left the budget 99-9/10% closed, and the typing of it and the formalities and the routines have never been questioned before. We have always been able to leave the conference after many hours believing that what we agreed to, every period and semi-colon and every paragraph, was in fact going to be intact and that any change was really a typographical error or an honest mistake.

There are just too many mistakes in this committee report. There are just too many errors in this one.

I'd like the record to show that last night we sat here till midnight trying to deal with the House and the House Leadership. The Republicans even offered to stretch the Rules of the Senate to every degree to allow the bill to be corrected as to the typographical aspect so that the measure could be clocked on our desks for the 24-hour rule, even though we were not in session.

I want the record to show that we offered to deal and meet with the House under any condition so that we wouldn't have to go into 'killing' this budget today on the floor, thus, I'm sure, causing the people of the State additional expenses in another extension.

Every offer, every indication was turned down by the House Leadership and the House conferees.

I think the Senators made every attempt to be fair and to resolve this quietly and fairly. At no time did we indicate, at no time did we charge, that it was done maliciously or deliberately.

We are willing to say everybody

was tired after four days of no sleep, day and night. We are willing to say that in the confusion, the late hours, anything could have happened. We did make every effort to resolve this quietly and the House rejected us.

I think this bill should be voted down.

Thank you."

The motion to adopt Conf. Com. Rep. No. 51 and to pass H.B. No. 892, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE BUDGET", having been read throughout, on Final Reading, was put by the Chair and failed to carry on the following showing of Ayes and Noes:

Ayes, none. Noes, 23 (Anderson, Ching, Chong, George, Hara, Henderson, Hulten, Kawasaki, King, Kuroda, Leopold, Nishimura, O'Connor, Saiki, Soares, Taira, Takitani, Toyofuku, R. Wong, Yamasaki, Yim, Young and Ushijima). Excused, 2 (F. Wong and Yee).

At 10: 35 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 10: 37 o'clock a.m.

The President announced that in accordance with the action taken by the Senate relative to House Bill No. 892, H.D. 1, S.D. 1, C.D. 1, he was requesting a conference on this matter with the House Leadership and therefore appointed Senators Ching, Kawasaki, O'Connor, Taira, Toyofuku and R. Wong to accompany him at this conference.

At 10: 38 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 10: 58 o'clock a.m.

MESSAGE FROM THE GOVERNOR

A message from the Governor (Gov. Msg. No. 473), transmitting an Executive Order providing for an extension of the 1977 Session of the Ninth Legislature, was read by the Clerk and placed on file. The Executive Order reads as follows:

"EXECUTIVE ORDER

WHEREAS, SECTION 11, Article III of the Constitution of the State

of Hawaii, provides that an extension of not more than fifteen days of any session may 'be granted by the presiding officers of both houses at the written request of two-thirds of the members of which each house is entitled or may be granted by the governor'; and

WHEREAS, pursuant thereto the governor extended the 1977 regular session of the Ninth Legislature for a period of forty-eight hours, excluding Saturday and Sunday, to 12: 00 midnight, April 19, 1977; and

WHEREAS, the governor further extended the 1977 regular session of the Ninth Legislature for a period of eleven hours to 11: 00 A.M., April 20, 1977; and

WHEREAS, it appears that a further extension is necessary in the public interest;

NOW, THEREFORE, I, GEORGE R. ARIYOSHI, Governor of Hawaii, pursuant to the power vested in me by Section 11, Article III of the Constitution of the State of Hawaii, do hereby further extend the 1977 regular session of the Ninth Legislature of the State of Hawaii for a period of one (1) hour(s) following 11: 00 A.M., April 20, 1977.

DONE at the State Capitol,
Honolulu, State of Hawaii,
this 20th day of April, 1977.

/s/ George R. Ariyoshi

GEORGE R. ARIYOSHI
Governor of Hawaii

APPROVED AS TO FORM:

/s/ Larry L. Zenker

LARRY L. ZENKER
Acting Attorney General"

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 668 to 675) were read by the Clerk and were disposed of as follows:

A communication from the House (Hse. Com. No. 668), returning Senate Concurrent Resolution No. 86 which was adopted by the House of Representatives on April 19, 1977, was placed on file.

A communication from the House

(Hse. Com. No. 669), returning Senate Concurrent Resolution No. 138, S.D. 1, which was adopted by the House of Representatives on April 19, 1977, was placed on file.

A communication from the House (Hse. Com. No. 670), returning Senate Concurrent Resolution No. 161 which was adopted by the House of Representatives on April 19, 1977, was placed on file.

A communication from the House (Hse. Com. No. 671), returning Senate Concurrent Resolution No. 162, S.D. 1, which was adopted by the House of Representatives on April 19, 1977, was placed on file.

A communication from the House (Hse. Com. No. 672), informing the Senate that the amendments proposed by the Senate to House Concurrent Resolution No. 112 were agreed to by the House and H.C.R. No. 112, S.D. 1, was finally adopted on April 20, 1977, was placed on file.

A communication from the House (Hse. Com. No. 673), returning Senate Bill No. 451, S.D. 1, which passed Third Reading in the House of Representatives on April 20, 1977, was placed on file.

A communication from the House (Hse. Com. No. 674), returning Senate Bill No. 1305, S.D. 1, which passed Third Reading in the House of Representatives on April 20, 1977, was placed on file.

A communication from the House (Hse. Com. No. 675), informing the Senate that the report of the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate to House Bill No. 892, H.D. 1, was adopted by the House, and H.B. No. 892, H.D. 1, S.D. 1, C.D. 1, passed Final Reading in the House of Representatives on April 20, 1977, by not less than two-thirds vote of all members to which the House is entitled, was placed on file.

ADJOURNMENT

At 12: 00 o'clock p.m., the President rapped his gavel and declared the Senate of the Ninth Legislature of the State of Hawaii, Regular Session of 1977, adjourned Sine Die.