

## SIXTY-THIRD DAY

Thursday, April 30, 1992

The Senate of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1992, convened at 12:01 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by The Honorable Eloise Yamashita Tungpalan, Hawaii State Senator, after which the Roll was called showing all Senators present.

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

## ORDER OF THE DAY

MATTERS DEFERRED FROM  
WEDNESDAY, APRIL 29, 1992

There being no objections, the Senate took the following actions out of the Order of the Day in the sequence printed:

## FINAL READING

Conf. Com. Rep. No. 146 (H.B. No. 2454, H.D. 1, S.D. 1, C.D. 1):

Senator Yamasaki moved that Conf. Com. Rep. No. 146 be adopted and H.B. No. 2454, H.D. 1, S.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator A. Kobayashi.

Senator Cobb rose to speak against the measure and said:

"Mr. President, earlier this session you indicated, if we had a disagreement with a bill, even if it were one item, that we should express that and if the disagreement was strong enough to vote 'no' on the entire measure. I recall that colloquy that we had when it came to the construction cost and renovation of the Capitol. For that reason I am rising this morning to speak against and to vote against the State budget for the following reasons.

"First of all, there is the transit item of \$53 million that is included in that document, or approximately \$53 million.

"We don't always do the popular thing, Mr. President. Two years ago 74% of the public favored a mass transit system. Today, 71% oppose it, according to the latest newspaper polls. When I voted 'no' two years ago, I was very conscious of that 74% being in favor of it, but I voted 'no' then on both the train and the tax. So it's not always the popular vote that we make. Just because public opinion has shifted does not mean necessarily that we should shift with the winds. But the reasons for opposing it today are even more compelling than was the case two years ago.

"The reason, Mr. President, is that there has not been provided any opportunity for us to have an up or down vote on the question of whether or not transit funding should continue. The only mechanism for this would be to have a motion of either approval or disapproval in form of either a resolution or a bill before this body for us to decide upon. At no point in time have we had or been afforded that opportunity.

"The Committee on Sensible Transit published a list recently where they said the majority of legislators would vote to oppose. I have no way of knowing that because that's their list, their publication, their source. But I

think we should have been afforded the opportunity to review this entire project and vote on it as a separate issue. Unfortunately, we have not been afforded that right.

"Based on the earlier admonition that I had from the Chair, the only choice then is to vote 'no' on the entire document.

"Mr. President, I also feel that the money could have been better used elsewhere, in such areas as education, human services, and health services.

"And I would point out that the City's proposed mass transit is already changed and gone way over the original budget. I would like to read just very briefly excerpts of a letter sent to me on February 24th by COST or the Committee on Sensible Transit: 'Making the point that it is not a bad faith or breach of contract to repeal the one-half percent general excise tax increase that was passed two years ago.'

"They go on to state, 'We would remind you that many of the changes that have occurred in the rail project since you voted for Bill 184. You voted then for a rail proposal far different from the one the City now has before you. In addition, the economic climate is now far weaker than what you had anticipated. In 1990 Hawaii was booming. Large year to year increases in state tax revenues could be taken for granted. Also in 1990, state legislators thought they were voting for a slim, non-intrusive monorail, running underground through town and into Waikiki. They believe that private contributions and the federal government would fund most, if not all, of its \$1.2 billion cost. They expected that the City might not really need the proposed one-half percent tax increase. Now in 1992 they or we are faced with the following: (1) A full-size noisy 70 decibel train; (2) A train that will not go underground through town. It will skirt downtown and wall off the waterfront; (3) It will not go into Waikiki. The City has still not worked out how they will transfer riders there; (4) Tax collections are sliding and tourism is either in disarray or in decline; (5) The construction cost is not \$1.2 billion, it is \$1.7 billion, and cost overruns are still yet to come; and (6) There are no private contributors. Local taxpayers must fund it all.'

"Quoting again, 'In short, if there is any bad faith and breach of contract, it is the promises of the City administration. They promised but they did not deliver.'

"In voting against the budget, Mr. President, I want to at the same time take the time to commend the chairman and members for their hard work, their diligence, their pursuit, and their restoration of so many vital areas in human services and education. They did face cuts. They did a yeoman's job. I'm not at all critical of that. In fact, I admire and support the work they did.

"But following the earlier admonition that we had on the floor of the Senate that if you feel so strongly on an issue that you cannot support the document you should articulate that and vote 'no' on the entire document. And that, Mr. President, is the reason I have outlined why I'm voting 'no' on the state budget. Thank you."

Senator McMurdo rose to speak in support of the bill and said:

"Mr. President, I do not feel that I can vote 'no' on this because of all the health and human services and some of the other funding which is so critical. But, I am equally as concerned about rapid transit as the previous

speaker, and I'd like to have the record reflect that if there were any way that I could vote against that part of the budget, it would be a resounding 'no.'

Senator Blair also rose to speak in support of the bill and remarked:

Mr. President, like the previous speaker, I have been and remain opposed to the rapid transit system. However, I feel the issue is now properly before the City Council. Therefore, I will not vote against the budget in a symbolic gesture of continued opposition to one of the items therein."

Senator Reed also rose to speak on the measure and said:

"Mr. President, I have for days been considering voting against the budget for the same reason expressed by Senator Cobb. I have since decided that because there are many worthwhile expenditures in this budget, I will vote for the budget. But I do so with serious reservations and I'd like to articulate just a couple of them.

"I share the previous speaker's concerns relative to the rapid transit and, were we allowed a line item type of negative vote, mine will be cast against the public funding of rapid transit. I also voted against the measure that enabled the public funding of rapid transit two years ago.

"A second concern has to do with the expanding cost of government and what the governor calls his 'warm body' policy. We have a government that is growing by leaps and bounds without a reciprocal increase in the service provided our citizenry. In the six years that the governor has been in office, state government has expanded by 16,000 people. The budget that we are about to vote on increases that by nearly 2,000 positions. We are at a point, nationally and locally, where we need to be tightening our belts and not continuing to increase the number of people who eat at the public trough.

"I will vote for the budget because there's good in it. Even though I will not be here next year, I would ask that my colleagues begin now to stop our seemingly ever-expanding government.

"Thank you very much."

Senator A. Kobayashi rose to speak in support of the bill and said:

"Mr. President, I too have serious concerns about mass transit. However, I will be voting for the budget because of the hard work put in by our Ways and Means chairman, all the liaisons with the different committees and the subject matter chairs. There's a lot of good in this budget. I know many of us have serious concerns about mass transit but voting against the budget is not a good way to stop that train. Thank you."

Senator Holt also rose to support the bill and stated:

"Mr. President, I rise to speak in support of this bill.

"Mr. President, I would like to thank the chairman of the Ways and Means Committee and his counterpart in the House for their hard work on this bill.

"As all of us know, it is extremely difficult to reduce the state budget by any amount without taking a considerable amount of criticism from all quarters. But faced as these men were by a potential \$360 million deficit, they could have taken a politically expedient approach by approving a budget to satisfy all of the public's demands and thereby diverting all of the hard

decisions to the governor. Instead, Mr. President, they courageously chose to make these decisions under extremely difficult circumstances.

"For the record, I believe that this document represents the best possible decisions that could be made in light of the state's financial condition and the increasing demand for public services.

"As a result, this budget is a bell weather of where we are and a barometer of what is to come. As an example, Mr. President, I would like to point to the \$28 million appropriation for moderate income housing at the old Kapiolani Community College site at Pensacola. In the eyes of the Ways and Means and Finance chairmen this project was more than a \$28 million cost item. They looked beyond the dollars, Mr. President, and saw the result of a unique partnership between the University, the HCDA, and the DOE, to address the need for moderate income public and faculty housing facilities, and at the same time the needs of McKinley High School, nearby residents, and the Kakaako Community Development District.

"As a result, the project will provide: 258 rental units for moderate income housing within the Kakaako Community Development District; an equal amount of 258 rental units for much needed faculty housing for the University of Hawaii; a new permanent facility for the community college employment training office program; an additional 40,000 sq. ft. of building space and parking facilities for McKinley High School; and an upgraded public recreational facility for nearby residents.

"This type of uncommon cooperation between the state agencies which results in exemplary solutions to common problems is superlative and must be recognized and encouraged, Mr. President. I congratulate both chairmen for recognizing this.

"For these reasons, Mr. President, I urge all my colleagues to join me in voting in favor of this budget. Thank you."

Senator B. Kobayashi then rose to speak in support of the bill and remarked:

"Mr. President, early this year I did not think this budget would be possible. I did not think that we could get out of this place with a budget that met many of our needs and still did not raise taxes. Somehow we have been able to do that. We have been able to do that in part because we have transferred some of our costs from this year to later years. That cost which has been transferred amounts to \$210 million because of changes in means of financing for the Department of Education construction fund and also the HFDC homes revolving fund. These changes as well as other sacrifices by other departments and very large cuts which were extremely painful allow us to pass this budget tonight.

"The budget we have before us is a blend of cuts where necessary, additions for certain extremely needed projects, and also some compromises which we all hope will prove out to be wise in the long run. We cannot forever count on plentiful resources to meet an ever expanding list of needs. But this budget does, in part, set the stage for what might be very lean years, including next year. It allows us a budget with a carryover balance that will hopefully keep our very good double A rating in tact. It will allow us to go into the next fiscal biennium with the opportunity to make additional changes where necessary and even to correct some of the cuts that we have made this year.

"In particular, I might make some comments about education since I am the education budget liaison. In lower education, the Senate position was originally to add back only \$7 million. We have in this budget added back over \$14 million, a very sizeable increase, and more than half way between where the Senate and House originally stood.

"In the University of Hawaii budget, we have a decrease of some \$8 million with very large and painful decreases mainly in the area of equipment and repair and maintenance. Fortunately, instructional positions have been spared and so the good work of the university, that of educating students, can continue hopefully with relatively little damage. Nonetheless, the university cannot forever forego repair and maintenance and cannot forego equipment. So this is an area in which I hope my colleagues would bear in mind the next time we see this budget, that we make amends where we have made cuts, and we be mindful that the continual erosion of programs cannot be allowed to continue without forcing the departments to make program changes. If these program changes are necessary, we must, I believe, shoulder part of the burden and responsibility and assist departments in making these changes.

"Mr. President, in conclusion, I think that this budget represents some of the best and worst in political decision-making. It required us to make some very deep cuts. It required us to cut programs that many of us feel very close to. This budget also required us to be responsible, to live within a very limited budget and try to prioritize amongst ourselves.

"This was a very difficult and quite unusual task, and I commend the chairman of Ways and Means for shepherding us through this process. I would think that under other leadership we would have been in much shakier ground. Nonetheless I think we have come through with a bare-bones budget that will hopefully serve us well in coming years. Thank you."

Senator Matsuura also rose to speak in support of the measure and said:

"Mr. President, I too am going to support the budget even though my dream has been deleted from the budget. I have to take my hats off to the chairman and the staff of Ways and Means because they were also involved in the investigatory work regarding some of the abuses on sole-source. I can't see how they managed to put the budget together.

"I'm not a member of the Ways and Means Committee. I don't know how they worked on the budget and also worked with me on the other issues. I really commend the chairman and the staff because I'm really tired and I only worked on my bills. I don't know how they did it but my hats off to them. And I'm 16 years younger than the chairman.

"Thank you."

Senator Cobb then rose to add:

"Mr. President, I had not planned to rise a second time but I wanted to share a brief response that emerged during the course of further debate.

"Clearly, I support and admire the work of the Ways and Means chairman and all those who did participate in this document. But realistically speaking, Mr. President, the only way to stop the train at the state level is to stop the budget because it's included as a part of that document. We cannot just defer action to the city. We are policymakers also and we made the policy decision

two years ago that allowed this to happen, that allowed this tax increase to take place this October. And we certainly have a right to review that decision.

"I have heard over and over again that the actions of one Legislature are not binding on another and that should apply in the case of the train as well. And there will be a tax increase this year because of our inaction, unfortunately, in not reviewing and having a stand up or down vote and possibly to leading the funding for this train.

"Mr. President, I think there is something fundamentally and terribly wrong with our political system. It does not provide for or allow a public vote as a separate item on an issue of this level of public concern. At no point during this session have we been afforded the opportunity or allowed the privilege of voting on this issue up or down as a separate issue.

"And my prediction is, if we were afforded that opportunity it would probably not pass in the Senate. And given the level of public concern out there, I think we should have had that opportunity. We have not. It's a sad thing. Because of so much good work that's done on the budget, the only specific reason that I am forced to vote 'no' is because of the inclusion of this train and the colloquy that took place earlier in this session between us that said very clearly that if you feel so strongly on an issue vote down on the entire bill.

"Mr. President, I hope in the future we will be afforded the opportunity to vote 'yes' or 'no' on a specific item rather than being forced to vote against an entire bill because of one item contained in it.

"Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 146 was adopted and H.B. No. 2454, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE BUDGET," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Cobb).

At 12:26 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:47 o'clock a.m.

#### MESSAGE FROM THE GOVERNOR

Gov. Msg. No. 362, dated April 30, 1992, transmitting the Executive Order providing for a further extension of the Regular Session of 1992 of the Sixteenth State Legislature, as follows:

#### "EXECUTIVE ORDER

WHEREAS, Section 10 of 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 to which each house is entitled or may be granted by the governor'; and

WHEREAS, pursuant to said Section 10 of Article III, the Regular Session of 1992 of the Sixteenth Legislature of the State of Hawaii has been extended; and

WHEREAS, the Governor has been requested to grant a further extension and it appears that such a further extension is necessary;

NOW, THEREFORE, I, JOHN WAIHEE, Governor of Hawaii, pursuant to the power vested in me by Section 10 of Article III of the Constitution of the State of Hawaii, do hereby extend the Regular Session of 1992 of the Sixteenth Legislature of the State of Hawaii for a period of one hour following 1:00 a.m., April 30, 1992.

DONE at the State Capitol,  
Honolulu, State of Hawaii,  
this 30th day of April, 1992.

/s/ John Waihee  
JOHN WAIHEE  
Governor of Hawaii"

was read by the Clerk and was placed on file.

**MATTERS DEFERRED FROM  
WEDNESDAY, APRIL 29, 1992**

**THIRD READING**

H.B. No. 3156:

On motion by Senator Yamasaki, seconded by Senator A. Kobayashi and carried, H.B. No. 3156, entitled: "A BILL FOR AN ACT RELATING TO THE TAXATION OF DIVIDENDS RECEIVED FROM AFFILIATED CORPORATIONS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

**FINAL READING**

Conf. Com. Rep. No. 21 (H.B. No. 2131, S.D. 1, C.D. 1):

On motion by Senator Mizuguchi, seconded by Senator A. Kobayashi and carried, Conf. Com. Rep. No. 21 was adopted and H.B. No. 2131, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT PRACTICES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 2 (George, Koki).

Conf. Com. Rep. No. 72 (S.B. No. 3109, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Ikeda, seconded by Senator Iwase and carried, Conf. Com. Rep. No. 72 was adopted and S.B. No. 3109, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO RENTAL MOTOR VEHICLES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 83 (S.B. No. 1843, S.D. 2, H.D. 1, C.D. 1):

Senator Blair moved that Conf. Com. Rep. No. 83 be adopted and S.B. No. 1843, S.D. 2, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Holt.

Senator Chang rose to inquire if the chair of the Conference Committee would yield to a question. The Chair posed the question and Senator Blair having answered:

"If it is of a technical nature, I may have ...."

The Chair said:

"Yes, maybe."

Senator Chang then stated:

"Thank you, Mr. President.

"From the committee report, there's no discussion as to whether the weapons or firearms considered in the bill were found to be 'excessively lethal' ...."

Senator Blair responded:

"In fact, I would direct your attention to page 2 where it says, 'In doing so, the Conferees were not guided by and did not apply the interpretation of Article I, Section 17, which was reflected in the Senate's position. In fact, your Conferees' specifically decline to make a finding that the weapons which are covered by this bill are or are not 'excessively lethal' as that term is used in Committee of the Whole Report No. 5, from Volume 1 of the proceedings of the 1950 Constitutional Convention."

Senator Chang continued:

"A reading of the bill indicates that you could have a semiautomatic 22-caliber pistol capable of receiving a detachable magazine and possessing a barrel shroud and be classified as an assault pistol. Is that correct?"

Senator Blair answered:

"I noted that your described weapon met criteria No. 3. I wasn't sure what the other criteria met would be, from among these on the list."

Senator Chang continued:

"A detachable magazine which attached to the pistol outside of the pistol grip."

Senator Blair responded:

"Having a detachable magazine, per se, wouldn't be one of the criteria. If the detachable magazine attached outside of the pistol grip, that would be criteria No. 1, which in addition to the shroud being criteria No. 3, would qualify it as an assault pistol."

Senator Chang continued:

"And that assault pistol would be prohibited under the terms of this bill?"

Senator Blair answered:

"Yes, but only with respect to new acquisitions. Those which are currently registered and lawfully owned could continue under their present ownership without any sanctions applied."

Senator Chang continued:

"In contrast, a 45-caliber pistol or a 44-magnum pistol which did not otherwise possess the characteristics described in this bill would not be prohibited?"

Senator Blair answered:

"That is correct."

Senator Chang continued:

"And this would be the case even where the 45-caliber pistol and the 44-magnum pistol possessed a greater range, a greater penetration, or a greater rate of fire than

the prohibited 22-caliber pistol with the characteristics that I have described before?"

Senator Blair responded:

"That is correct. There's nothing in the bill concerning the size of the round, the caliber, that the weapon fires. There is nothing specifically with relationship to the weapon's discharge rate and my understanding is that all semiautomatics are able to fire at approximately the same rate of speed. There is nothing in the bill with respect to penetration."

Senator Chang further asked:

"Is it your statement then that penetration and range are not significant characteristics considered by this bill?"

Senator Blair answered:

"I suppose it depends on which side of the gun you're standing. (Laughter.)

"I'm sorry, withdraw the previous comment.

"They're not reflected in this bill."

Senator Chang then said:

"Thank you very much, Mr. President."

Senator Blair, in support of the measure, said:

"Mr. President, on behalf of the conferees on this bill, although I may be out of order, I'd like to present you with a token of our appreciation for your efforts. This gift is less than 50 ounces and shorter than 12 inches. It does not have a silencer, although we diligently sought to find one which had a silencer attached. In any event, while it's being delivered by the Sergeant-at-Arms, I would like to note that there are some errors in the committee report which reflected an earlier draft proposal offered by the House in the course of the negotiations. I would request that certain corrections be noted in the Senate Journal so that people are not misled by reading the committee report.

"The bill is, however, correct with respect to any of the differences between the bill and the committee report. And with your permission I would like to have these remarks inserted in the Journal."

The Chair having so ordered, Senator Blair's remarks follow:

"Mr. President, as Chair of the Senate conferees, I request that the following corrections be noted in the Senate Journal regarding Senate Conference Committee Report No. 83, S.B. 1843, S.D. 2, H.D. 1, C.D. 1.

"Paragraph number 7, on pages 3 and 4, should read as follows:

'(7) The limitation on the size of detachable ammunition magazines was amended to "grandfather" existing magazines with a capacity of less than [twenty] twenty-one cartridges for a period of [one year,] two years, if they are owned by the owners of registered [pistols.] firearms. The penalty provisions, therefore, will apply during that time only to persons who have a detachable magazine of greater than [nineteen] twenty round capacity or who are not the legal [owner] owners of a registered firearm into which the magazine will fit. It should be noted that, in order to have this grandfather effect apply, the owners of [the] carbines and rifles with magazines which are capable of use with

a pistol and whose capacity is greater than ten rounds will be required to register their firearm, even if registration is not otherwise required. This grandfather clause will permit owners of [pistols with a magazine capacity] magazines with a capacity [between eleven and nineteen rounds] greater than ten and less than twenty-one rounds which are designed for or capable of use with a pistol to modify, or cause to be modified, their magazines, and will also permit firearms manufacturers and aftermarket suppliers to meet the demand for magazines with a maximum capacity of ten rounds.

"The bill is clear. However, the committee report reflected an earlier draft proposal offered in the course of the negotiations. I apologize for any confusion. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 83 was adopted and S.B. No. 1843, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FIREARMS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 101 (H.B. No. 3960, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Crozier, seconded by Senator Aki and carried, Conf. Com. Rep. No. 101 was adopted and H.B. No. 3960, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONDOMINIUM PROPERTY REGIMES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 139 (H.B. No. 602, H.D. 2, S.D. 1, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Blair and carried, Conf. Com. Rep. No. 139 was adopted and H.B. No. 602, H.D. 2, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE JUDICIARY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

At 1:01 o'clock a.m., the Senate stood in recess, subject to the call of the Chair.

The Senate reconvened at 2:20 o'clock a.m.

#### MESSAGE FROM THE GOVERNOR

Gov. Msg. No. 363, dated April 30, 1992, transmitting the Executive Order providing for a further extension of the Regular Session of 1992 of the Sixteenth State Legislature, as follows:

#### "EXECUTIVE ORDER

WHEREAS, Section 10 of 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 to which each house is entitled or may be granted by the governor'; and

WHEREAS, pursuant to said Section 10 of Article III, the Regular Session of 1992 of the Sixteenth Legislature of the State of Hawaii has been extended; and

WHEREAS, the Governor has been requested to grant a further extension and it appears that such a further extension is necessary;

NOW, THEREFORE, I, JOHN WAIHEE, Governor of Hawaii, pursuant to the power vested in me by Section 10 of Article III of the Constitution of the State of Hawaii, do hereby extend the Regular Session of 1992 of the Sixteenth Legislature of the State of Hawaii for a period of one hour following 2:00 a.m., April 30, 1992.

DONE at the State Capitol,  
Honolulu, State of Hawaii,  
this 30th day of April, 1992.

/s/ John Waihee  
JOHN WAIHEE  
Governor of Hawaii"

was read by the Clerk and was placed on file.

### HOUSE COMMUNICATION

Hse. Com. No. 1057, informing the Senate that the report of the Committee on Conference on House Bill No. 2454, H.D. 1, S.D. 1, C.D. 1 (RELATING TO THE STATE BUDGET), was adopted on April 30, 1992 by the House; and that said House Bill passed Final Reading in the House of Representatives on April 30, 1992, was read by the Clerk and was placed on file.

### ORDER OF THE DAY

#### MATTERS DEFERRED FROM WEDNESDAY, APRIL 29, 1992

#### FINAL READING

Conf. Com. Rep. No. 149 (H.B. No. 2705, H.D. 2, S.D. 1, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Aki and carried, Conf. Com. Rep. No. 149 was adopted and H.B. No. 2705, H.D. 2, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE JUDICIARY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 147 (H.B. No. 3184, H.D. 2, S.D. 1, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Aki and carried, Conf. Com. Rep. No. 147 was adopted and H.B. No. 3184, H.D. 2, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SUPPLEMENTAL BUDGET OF THE OFFICE OF HAWAIIAN AFFAIRS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

#### THIRD READING

Stand. Com. Rep. No. 3020 (H.B. No. 2680):

On motion by Senator Yamasaki, seconded by Senator A. Kobayashi and carried, Stand. Com. Rep. No. 3020 was adopted and H.B. No. 2680, entitled: "A BILL FOR AN ACT AUTHORIZING THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR THE REHABILITATION HOSPITAL OF THE PACIFIC," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

#### FINAL READING

Conf. Com. Rep. No. 37 (H.B. No. 1930, S.D. 2, C.D. 1):

Senator Blair moved that Conf. Com. Rep. No. 37 be adopted and H.B. No. 1930, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Levin.

Senator Blair, in support of the measure, said:

"Mr. President, I believe there is language in the committee report which might be misinterpreted and I'd like to insert some clarifying remarks in the Journal."

The Chair, having so ordered, Senator Blair's remarks are as follows:

"Mr. President, as Chair of the Senate conferees, I'd like the record to reflect a clarification to the Conference Committee Report.

"On page 2 of the Conference Committee Report, the second of the paragraphs that is designated '(3)' should read:

'(3) Specifying that the durable power of attorney shall not be presumed to grant authority to prolong the principal's life through certain medical procedures or withhold such life prolonging procedures, unless authority is explicitly stated;'

"The phrase 'or withhold such life prolonging procedures' was inadvertently deleted.

"Thus, at page 5, on lines 10 through 13 inclusive, the bill provides that the absence of a selection on the sample form would result in the decision to use or withhold life sustaining procedures being made without reference to the durable power of attorney.

"I should also note that the double negative on page 3, lines 2 and 3, is awkward. The section can be better understood if read:

'(c) A durable power of attorney for health care decisions shall be presumed not to grant authority to decide [that] whether the principal's life should [not] be prolonged through surgery ....'

"Thank you, Mr. President, for allowing me to make this clarifying entry into the Journal."

Senator Tungpalan rose to speak against the bill and said:

"Mr. President, because of the lack of clarification, I feel that I must vote 'no.' Where life is concerned, I certainly want it to be clear, crystal clear, that people who are dying should be given the opportunity to have water, food and such. I'll be voting 'no' because it's not clear. Thank you."

Senator Blair rose to respond:

"Mr. President, my submitted remarks should address the lack of clarity in the committee report. The bill itself is clear."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 37 was adopted and H.B. No. 1930, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING

TO POWER OF ATTORNEY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Tungpalan). Excused, 1 (Reed).

Conf. Com. Rep. No. 67 (S.B. No. 3271, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Ikeda, seconded by Senator Cobb and carried, Conf. Com. Rep. No. 67 was adopted and S.B. No. 3271, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO UNLICENSED ACTIVITY IN CONTRACTING," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 90 (S.B. No. 3247, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Aki and carried, Conf. Com. Rep. No. 90 was adopted and S.B. No. 3247, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HOUSING FINANCE AND DEVELOPMENT CORPORATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 92 (S.B. No. 2758, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Aki and carried, Conf. Com. Rep. No. 92 was adopted and S.B. No. 2758, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 94 (S.B. No. 2288, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Blair and carried, Conf. Com. Rep. No. 94 was adopted and S.B. No. 2288, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION TO ESTABLISH A STATEWIDE BLOOD AND SALIVA TESTING PROGRAM," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 97 (S.B. No. 2964, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator B. Kobayashi and carried, Conf. Com. Rep. No. 97 was adopted and S.B. No. 2964, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO A RESOURCE AND TECHNICAL ASSISTANCE PROJECT ON AUTISM," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 98 (S.B. No. 3004, S.D. 1, H.D. 2, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Iwase and carried, Conf. Com. Rep. No. 98 was adopted and S.B. No. 3004, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR REMOVAL OF HAZARDOUS MATERIALS FROM PUBLIC SCHOOLS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 99 (S.B. No. 3398, S.D. 1, H.D. 2, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Aki and carried, Conf. Com. Rep. No. 99 was adopted and S.B. No. 3398, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR ACTIVITIES TO INCREASE THE TRANSFER OF INTERNATIONAL TECHNOLOGIES AND BUSINESSES TO HAWAII," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 100 (S.B. No. 1419, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator B. Kobayashi and carried, Conf. Com. Rep. No. 100 was adopted and S.B. No. 1419, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO AN EMERGENCY RESPONSE TRAUMA PROGRAM," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 108 (H.B. No. 2366, H.D. 2, S.D. 1, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Chang and carried, Conf. Com. Rep. No. 108 was adopted and H.B. No. 2366, H.D. 2, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE MOLOKAI IRRIGATION SYSTEM," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 111 (H.B. No. 2719, H.D. 2, S.D. 1, C.D. 1):

Senator Yamasaki moved that Conf. Com. Rep. No. 111 be adopted and H.B. No. 2719, H.D. 2, S.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Aki.

Senator Ikeda rose to speak in support of the measure and said:

"Mr. President, I'll be voting in favor of this bill. However, I do have some problems with it. My problem is with Section (12), which states, 'Adopting rules under chapter 91, Hawaii Revised Statutes; provided that any rules adopted within one year after the effective date of this Act shall be exempt from the public notice and public hearing requirements of chapter 91;'

"Mr. President, this is the same type of provision that got us into trouble when we passed the law last year, and the only reason I'm voting in favor of this bill is because it isn't open-ended. There is a limit and rules adopted after the first year will have to go through the Chapter 91

process. I, nevertheless, feel very strongly that any rules adopted should not be exempt from public notice and public hearings. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 111 was adopted and H.B. No. 2719, H.D. 2, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HOMELESS PROGRAMS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 112 (H.B. No. 3982, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Holt and carried, Conf. Com. Rep. No. 112 was adopted and H.B. No. 3982, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DIAMOND HEAD," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 113 (H.B. No. 2959, H.D. 2, S.D. 1, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Iwase and carried, Conf. Com. Rep. No. 113 was adopted and H.B. No. 2959, H.D. 2, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE MARINE ENVIRONMENT," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 117 (H.B. No. 3119, H.D. 2, S.D. 1, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Iwase and carried, Conf. Com. Rep. No. 117 was adopted and H.B. No. 3119, H.D. 2, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE TRANSFER OF PUBLIC SAFETY FUNCTIONS AND EMPLOYEES FROM VARIOUS DEPARTMENTS TO THE DEPARTMENT OF PUBLIC SAFETY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 120 (H.B. No. 2911, H.D. 2, S.D. 1, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Aki and carried, Conf. Com. Rep. No. 120 was adopted and H.B. No. 2911, H.D. 2, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION TO PROVIDE LOW-INTEREST LOANS FOR SELF-HELP HOME CONSTRUCTION ON THE ISLAND OF HAWAII," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 123 (H.B. No. 2614, H.D. 2, S.D. 1, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Blair and carried, Conf. Com. Rep. No. 123 was adopted and H.B. No. 2614, H.D. 2, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR A STUDY OF SUPPORT SERVICES PROVIDED TO VICTIMS OF DOMESTIC VIOLENCE AND FOR

THE CREATION OF VICTIM SUPPORT MODELS IN EACH OF THE COUNTIES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 124 (H.B. No. 2431, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Tungpalan and carried, Conf. Com. Rep. No. 124 was adopted and H.B. No. 2431, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CULTURE AND THE ARTS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 127 (H.B. No. 3002, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Blair and carried, Conf. Com. Rep. No. 127 was adopted and H.B. No. 3002, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE RELIEF OF CERTAIN PERSONS' CLAIMS AGAINST THE STATE AND PROVIDING APPROPRIATIONS THEREFOR," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 128 (H.B. No. 2612, H.D. 2, S.D. 1, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Blair and carried, Conf. Com. Rep. No. 128 was adopted and H.B. No. 2612, H.D. 2, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE CONSTRUCTION OF A MODEL FOR THE COLLECTION OF DATA REGARDING THE VICTIMS OF HATE CRIMES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 129 (H.B. No. 3353, H.D. 3, S.D. 1, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Aki and carried, Conf. Com. Rep. No. 129 was adopted and H.B. No. 3353, H.D. 3, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HOUSING," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (George). Excused, 1 (Reed).

Conf. Com. Rep. No. 130 (H.B. No. 3493, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator B. Kobayashi and carried, Conf. Com. Rep. No. 130 was adopted and H.B. No. 3493, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR REPAIR AND MAINTENANCE OF SCHOOLS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 131 (H.B. No. 3801, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Aki and carried, Conf. Com. Rep. No. 131 was adopted and H.B. No. 3801, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO COMMUNITY HOSPITALS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 132 (H.B. No. 2400, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Crozier and carried, Conf. Com. Rep. No. 132 was adopted and H.B. No. 2400, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MORTGAGE INSURANCE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 134 (H.B. No. 3658, S.D. 2, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Cobb and carried, Conf. Com. Rep. No. 134 was adopted and H.B. No. 3658, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO VETERANS WAR MEMORIALS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 136 (H.B. No. 2320, S.D. 1, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Chang and carried, Conf. Com. Rep. No. 136 was adopted and H.B. No. 2320, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE COLLECTION AND DISPOSAL OF HOUSEHOLD HAZARDOUS WASTES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 137 (H.B. No. 3062, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Aki and carried, Conf. Com. Rep. No. 137 was adopted and H.B. No. 3062, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE PROTECTION OF NATURAL RESOURCES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 138 (H.B. No. 3134, H.D. 2, S.D. 1, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Aki and carried, Conf. Com. Rep. No. 138 was adopted and H.B. No. 3134, H.D. 2, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ENERGY EMERGENCY RESPONSE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 140 (H.B. No. 2571, H.D. 2, S.D. 2, C.D. 1):

Senator Yamasaki moved that Conf. Com. Rep. No. 140 be adopted and H.B. No. 2571, H.D. 2, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Blair.

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

"Mr. President, I've been pondering all night what I should do but I've decided to speak in favor of the bill with reservations.

"Mr. President, we've had so much information and discussion about non-negotiated contracts and example after example have hit the front pages and right here on the floor with GTE and others that it is time that we do intervene and take drastic action.

"I like some of the language in the bill, especially on page 15 where the advertising for bids is required; and page 16 where it says, 'No expenditure of public money for services and supplies where the sum to be expended is more than \$15,000, or for construction where the sum to be expended is more than \$35,000 shall be made except under contract let after public advertisement, in the manner provided by law, except: ...' and they list a whole bunch.

"The one that really strikes me as very positive is on page 17, No. 6: 'When the purchasing authority: (A) Determines that it is for a purchase that does not admit of competition; and' (this is the great part) '(B) Notifies the legislature in writing of such determination not less than: (i) Fifteen days' and so on. At least they're notifying the Legislature, and that's very positive.

"But on the down side, Mr. President, and this is the point I was pondering. Going back to page 5, and it talks about 'Multi-step sealed bidding; receipt, handling and evaluation of unpriced technical offers. Unpriced technical offers shall not be opened publicly but shall be opened in front of two or more procurement officials. The offers shall not be disclosed to unauthorized persons. Bidders may request nondisclosure of trade secrets and other proprietary data identified in writing.' It goes on to determine who can participate. If you put in a bid, the procurement officer must in writing tell you if your offer is considered acceptable, potentially acceptable or unacceptable.

"Then, where the problem arises is on page 6 under section 103-K1, and it says, 'The contracting officer may initiate phase two of the procedure if there are sufficient acceptable unpriced technical offers to assure effective price competition in phase two without technical discussions. If the contracting officer finds that this is not the case, the contracting officer shall issue an amendment to the invitation for bids or engage in technical discussions as forth in section 103-K1 and 103-G1 (2).'

"The point I'm trying to make, Mr. President, is that they set up a criteria, if there's three people bidding for the job and they can get the rating of (1), acceptable, so you can participate; (2) you're potentially acceptable, that is being reasonably susceptible to being able to being made acceptable; or (3) unacceptable. Now, when it's time for the contracting officer to continue the negotiation, the contracting officer must only deal with those companies that got the rating of (1) or (2). Those who got the rating of (3) have been eliminated and that sounds good. However, the contracting officer has the

right to change or amend the invitation for bids. In other words, they can amend the criteria, that's my impression. I may be wrong. So what this is doing is setting us up for a lawsuit. If I get excluded because I'm unacceptable then you as a contracting officer changed the rules on me. I should be allowed back in but the way the bill is written right now it says I cannot get back in. I guarantee you, the first bidder that's excluded by this section will be in court to sue for being excluded.

"So I have grave reservations about this. It may jeopardize the bill but I think it's necessary that we move forward because of so much grief and so many issues that have come before us. For that reason I'll be supporting the bill."

Senator Matsuura also in support of the bill then said:

"Mr. President, the Senator from Makakilo is correct in terms of some of his reservations. Let me assure you that this section has been written primarily to address some of the shortfalls of the procurement process. As all of you know, we have no laws, no rules or regulations relating to procurement and this is the first attempt to address that deficiency.

"As the good Senator mentioned about some of his concerns, I want all of you to know that Section 2, which is from page 1 to page 13, all of that section comes into effect July 1st of 1993, so we will get a chance to take a look at this section in the next legislative session, that's in 1993. So it doesn't take effect till July 1st of 1993.

"The good Senator also mentioned about the good features. All of the good features that he mentioned are included in Section 3, so with that I strongly recommend that we pass this bill. Thank you very much."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 140 was adopted and H.B. No. 2571, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC CONTRACTS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 145 (H.B. No. 521, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Aki and carried, Conf. Com. Rep. No. 145 was adopted and H.B. No. 521, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO STATE BONDS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 148 (H.B. No. 736, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Aki and carried, Conf. Com. Rep. No. 148 was adopted and H.B. No. 736, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAX CREDITS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 152 (S.B. No. 2997, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Aki and carried, Conf. Com. Rep. No. 152 was adopted

and S.B. No. 2997, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR IMPLEMENTATION OF THE KAHUKU FLOOD RELIEF MASTER PLAN," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 153 (S.B. No. 2882, S.D. 2, H.D. 2, C.D. 1):

Senator Yamasaki moved that Conf. Com. Rep. No. 153 be adopted and S.B. No. 2882, S.D. 2, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator A. Kobayashi.

Senator McMurdo rose to speak in support of the bill and said:

"Mr. President, after much deliberation about this bill, I will be voting for it. This bill mandates the Convention Center Authority to search statewide for an appropriate convention site and then to report back to the Legislature. The Legislature must approve any action which is taken. I think these are good steps.

"But I am, as I did the other day, serving notice to the Convention Center Authority and, particularly, chairman Donald Takaki, that a good faith effort must be made to carry out the intent of the bill. I expect Mr. Takaki to comply not only with the letter of the law but with the spirit of the law.

"My constituents from Waikiki, Moiliili and Ala Moana will be watching this authority like a hawk, because we all want a win-win solution which would be satisfactory not only to those in the tourist industry but also to those who reside in the area of the convention center.

"I also would like to remind Mr. Takaki that other commissions, who've ignored the wishes of constituents, have done so at their own peril. A classic example was a recent fiasco with the Veterans War Memorial Commission, and we have taken legislative action tonight to straighten out that mess. This is a kind of blessing which Mr. Takaki cannot ignore.

"I hope that my colleagues will bear out this watchfulness to be sure that this bill is complied with in full. Thank you very much."

Senator Cobb also rose to speak in support of the measure and stated:

"Very briefly, Mr. President, speaking in support of the measure. One item of the bill that did concern me and I would like to express as a reservation is the continuing ability of this authority to condemn land. Fortunately, the conferees have built into it a requirement for legislative approval and it's because of the good work of the chairman and the Conference Committee members in addressing this and other concerns that I am supporting the bill.

"But it would seem to be patently unfair for the authority to have the ability to go in and condemn land for an owner or developer that has already put a lot of effort into a convention center site of their own, has gone through the entire approval process, has received that approval from the City and County of Honolulu and suddenly to have their land condemned and their site taken away from them at what would be considerably less than what their investment would be, even though it could be determined to be fair market value. But because it has the redeeming feature of legislative approval of such an

action, thus, coming back here, I think the bill is worthy of support and I will be voting for it."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 153 was adopted and S.B. No. 2882, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO WAIKIKI," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 154 (S.B. No. 2868, S.D. 2, H.D. 2, C.D. 1):

Senator Yamasaki moved that Conf. Com. Rep. No. 154 be adopted and S.B. No. 2868, S.D. 2, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Crozier.

Senator Crozier rose to speak in support of S.B. No. 2868 and related bills, S.B. No. 2867 and H.B. No. 2505, as follows:

"Mr. President, I'm speaking in favor of the bill, and my comments will not only be for this bill but for the following bill, Senate Bill 2867, and also House Bill 2505 which we have already passed.

"Mr. President, the three bills and many other bills that have come out of the housing package this year continue the process of trying to deliver housing for people. With Act 15 and the creation of HFDC we were able to begin to provide housing in the affordable market range for our people. Then we made an attempt to attack the homeless problem.

"The one leg of this stool that was missing was trying to resolve the shortage of rental units in Hawaii and this bill goes right to the heart of that.

"Senate Bill 2868 creates a rental housing trust fund. This housing trust fund will create rental units for those who make below 60% of median income. Mr. President, this is a product of the House of Representatives Housing Summit that they had this summer. It was put together by many community individuals from across the state with the House of Representatives and they worked very hard to do this. There's \$15 million in here to be used for grants or loans to help provide low-income rental units. It's a fantastic bill.

"The next bill S.B. 2867 creates interim construction loan financing. And this bill, Sir, was put together by the governor's office and HFDC. It will make interim construction financing available. Interim construction financing is hard to come by now not only here in Hawaii but across the nation. So making money available for rental units will create opportunities so that we can have more vacancies. Now our vacancy is down about 2%. In other words, there are people out there watching the obituary column to see who died so they hope they can move in to the apartment.

"It's been quite a year. The House worked hard. The governor and his people worked very hard to put a package together. The role that the Senate played was after they had taken all the great ideas, you know there's no other ideas left for us to take. So what we did, we played the role of the honest broker; in other words, looked at the different bills and tried to mesh the best of the bills together. And I think we've done that. We were able to create a coalition from the governor, from the House of Representatives and the Senate and the community to put a package together that will truly help the people of Hawaii.

"For example, House Bill 2505 streamlines the process for developers who normally have to wait 7 years to go through the government process. This, if everything works out, will streamline it to 2 years; in other words saving tons of money so that the developer can get the homes to the people in a lot faster time.

"Mr. President, I am personally proud and I thank all my committee members for supporting me and also the Senate who allowed the committee to have the flexibility to mesh these bills together so that we can deliver housing for our people.

"Thank you very much."

Senator B. Kobayashi also rose to support the measure and remarked:

"Mr. President, I rise to support the words of the previous speaker.

"The Senate Housing chairman has done a commendable job in shepherding these two bills which contain \$40 million of funding and also over 20 other bills. The previous speaker mentioned the streamlining bill. This by itself is a remarkable bill because by December of 1994 the counties will, hopefully, have streamlined their process so that all permits will be approved or not approved within 18 months, and the state will have a process of approving permits within 6 months.

"These bills along with others such as, mortgage insurance, with funding of \$5 million, a number of other bills having to do with incentive programs for renters, all add up to a very large and very productive package for housing.

"I think the big winner here this year is rental housing, clearly, a priority of our Housing chairman, and also rental housing for low and moderate income residents and rental housing which seeks to give preferences, in many instances, to non-profit agencies.

"Another further emphasis in several of these bills is the building of multi-unit type projects. All in all, a very large and productive package, and I think a very good commendable effort. We have a lot more to do and I think we'll try to do more next year. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 154 was adopted and S.B. No. 2868, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE FINANCING OF AFFORDABLE RENTAL HOUSING," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

At 2:50 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 2:51 o'clock a.m.

#### MESSAGE FROM THE GOVERNOR

Gov. Msg. No. 364, dated April 30, 1992, transmitting the Executive Order providing for a further extension of the Regular Session of 1992 of the Sixteenth State Legislature, as follows:

#### EXECUTIVE ORDER

WHEREAS, Section 10 of 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 to which each house is entitled or may be granted by the governor'; and

WHEREAS, pursuant to said Section 10 of Article III, the Regular Session of 1992 of the Sixteenth Legislature of the State of Hawaii has been extended; and

WHEREAS, the Governor has been requested to grant a further extension and it appears that such a further extension is necessary;

NOW, THEREFORE, I, JOHN WAIHEE, Governor of Hawaii, pursuant to the power vested in me by Section 10 of Article III of the Constitution of the State of Hawaii, do hereby extend the Regular Session of 1992 of the Sixteenth Legislature of the State of Hawaii for a period of one hour following 3:00 a.m., April 30, 1992.

DONE at the State Capitol,  
Honolulu, State of Hawaii,  
this 30th day of April, 1992.

/s/ John Waihee  
JOHN WAIHEE  
Governor of Hawaii"

was read by the Clerk and was placed on file.

#### FINAL READING

Conf. Com. Rep. No. 155 (S.B. No. 2867, H.D. 2, C.D. 1):

On motion by Senator Crozier, seconded by Senator Yamasaki and carried, Conf. Com. Rep. No. 155 was adopted and S.B. No. 2867, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO AFFORDABLE HOUSING," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 156 (S.B. No. 2485, S.D. 2, H.D. 2, C.D. 1):

Senator Yamasaki moved that Conf. Com. Rep. No. 156 be adopted and S.B. No. 2485, S.D. 2, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Aki.

Senator Crozier rose to speak in support of the bill and said:

"Mr. President, I hear the murmurs of pleasure when I stood up, especially from the gentleman to the right. He's so excited to hear me speak again. But I will keep it short.

"I speak in support of this bill and the following bill, S.B. 2638.

"Mr. President, both of these bills deal with HFDC's master housing developments, one on the Big Island, Kealahou, and also Lahaina on Maui. HFDC is trying to build affordable houses on state lands or ceded lands. The one in Kealahou is on ceded land and the one in Lahaina is also ceded land which was used for sugar. Therefore, there are some entitlements with them. Entitlements to OHA. OHA gets 20% of the revenue and Hawaiian Home Lands gets 30% of the revenue.

"For the last four years, the executive branch and the entitlement recipients have not been able to find a

negotiated settlement. It took the Legislature to finally step in and bring some kind of resolution to this problem.

"These bills, what they do, first of all, allow for an appraisal to take place. After the appraisal has taken place then each of the entitlements get their money. If they cannot be paid off at the time of transfer from DLNR to HFDC, then they collect interest. The land is there for residential purposes, but at some point in time HFDC may change the use of this land, maybe to commercial or to golf courses, and it's incumbent upon the State of Hawaii to recognize that the entitlement of the native Hawaiian people should be recognized. And what we've done is to allow for a mechanism so that these entitlements can come back into play. They will receive a share of the revenues after -- let me repeat, after -- after the annual debt service has been paid, because we need to allow HFDC to participate. They have to sell the land then OHA and DHHL do not get as much.

"When the debt service is paid, then there's 1% that goes to administration cost, and after that the entitlement takes place. We look forward to a very generous income stream down the line from the commercial properties. This way the general public can get their homes that's been tied up for four years. We couldn't make any headway. We're going to make the headway now. Also the entitlements can produce a lot more money than they're getting now. They're getting pittance for those lands, Mr. President. In fact, in Kealahou I don't think OHA is getting anything for the land, but we're going to make the lands work. OHA and Hawaiian Home Lands will start to get some kind of income stream so they can produce more houses for their people.

"I am very excited about this and I hope my colleagues support this. Thank you."

Senator Solomon also support the measure and said:

"Mr. President, I also speak in support of this bill.

"Mr. President, although I would have liked to have seen more flexibility as part of the negotiation in terms of the settlement and entitlements issue, as to both organizations being able to take proportionate shares in our 'aina' or land, as opposed to just cash transactions. I've always felt very strongly about that and I just would like to express those reservations that I have although I do support the formula and I commend the committee. I know it was a very, very difficult transaction, but I think that all of us and, if my colleagues did not have the opportunity to see what has happened with the Hawaiian entitlements and what the Office of Hawaiians is now experiencing, I think that maybe we should be more sensitive in helping the Office of Hawaiian Affairs as well as DHHL in giving them that flexibility if their beneficiaries feel more comfortable in looking at the entitlements and the settlement in taking their proportionate shares in the 'aina' as opposed to the cash dollars.

"I would like to urge the chairman of the committee as well as those conferees that were the managers on behalf of the Senate to possibly look at that for the upcoming entitlements which we will be looking at again next year. Thank you."

On motion by Senator Yamasaki, seconded by Senator Aki and carried, Conf. Com. Rep. No. 156 was adopted and S.B. No. 2485, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 157 (S.B. No. 2638, S.D. 1, H.D. 2, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Crozier and carried, Conf. Com. Rep. No. 157 was adopted and S.B. No. 2638, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF HAWAIIAN HOME LANDS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 158 (S.B. No. 2407, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Crozier and carried, Conf. Com. Rep. No. 158 was adopted and S.B. No. 2407, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION TO MARK THE ONE HUNDREDDTH ANNIVERSARY OF THE OVERTHROW OF QUEEN LILIUOKALANI AND TO DISCUSS ISSUES OF HAWAIIAN SOVEREIGNTY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 159 (S.B. No. 3116, S.D. 1, H.D. 2, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Hagino and carried, Conf. Com. Rep. No. 159 was adopted and S.B. No. 3116, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC CONTRACTS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 160 (S.B. No. 2855, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Aki and carried, Conf. Com. Rep. No. 160 was adopted and S.B. No. 2855, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HAWAIIAN HOME LANDS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

#### RECONSIDERATION OF ACTIONS TAKEN

Conf. Com. Rep. No. 150 (H.B. No. 3974, H.D. 1, S.D. 1, C.D. 1):

Senator Ikeda moved that the Senate reconsider its action taken on April 29, 1992, in adopting Conf. Com. Rep. No. 150 and the passage of Final Reading of H.B. No. 3974, H.D. 1, S.D. 1, C.D. 1, seconded by Senator Iwase and carried.

On motion by Senator Ikeda, seconded by Senator Iwase and carried, Conf. Com. Rep. No. 150 was adopted and H.B. No. 3974, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO NO-FAULT INSURANCE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Senator Solomon then moved that the Senate reconsider its actions taken on April 7, 10, and 13, 1992, in disagreeing to the amendments proposed by the House to the following Senate Bills:

S.B. No. 1516, S.D. 1 (H.D. 1);  
 S.B. No. 2237, S.D. 1 (H.D. 1);  
 S.B. No. 2306, S.D. 1 (H.D. 1);  
 S.B. No. 2438, S.D. 1 (H.D. 1);  
 S.B. No. 2607 (H.D. 1);  
 S.B. No. 2675, S.D. 1 (H.D. 2);  
 S.B. No. 2676, S.D. 1 (H.D. 1);  
 S.B. No. 2684 (H.D. 1);  
 S.B. No. 2689, S.D. 1 (H.D. 1);  
 S.B. No. 2771, S.D. 1 (H.D. 1);  
 S.B. No. 2777, S.D. 1 (H.D. 1);  
 S.B. No. 2780, S.D. 1 (H.D. 1);  
 S.B. No. 2826, S.D. 1 (H.D. 1);  
 S.B. No. 2851, S.D. 2 (H.D. 2);  
 S.B. No. 2858, S.D. 1 (H.D. 2);  
 S.B. No. 2861, S.D. 1 (H.D. 2);  
 S.B. No. 2885 (H.D. 2);  
 S.B. No. 3062, S.D. 1 (H.D. 2);  
 S.B. No. 3100, S.D. 2 (H.D. 1);  
 S.B. No. 3186, S.D. 2 (H.D. 1);  
 S.B. No. 3237, S.D. 2 (H.D. 1);  
 S.B. No. 3278, S.D. 2 (H.D. 2);  
 S.B. No. 3286 (H.D. 1);  
 S.B. No. 3288, S.D. 2 (H.D. 2);  
 S.B. No. 3306, S.D. 2 (H.D. 1);  
 S.B. No. 3340 (H.D. 1);  
 S.B. No. 3345, S.D. 1 (H.D. 1); and  
 S.B. No. 3436, S.D. 1 (H.D. 1),

seconded by Senator George and carried.

On motion by Senator Solomon, seconded by Senator George and carried, the Senate agreed to the amendments proposed by the House to the foregoing Senate Bills and said Senate Bills, as amended, listed as follows:

S.B. No. 1516, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT AUTHORIZING THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR NOT-FOR-PROFIT CORPORATIONS THAT PROVIDE HEALTH CARE FACILITIES";

S.B. No. 2237, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO BAIL BOND BUSINESSES";

S.B. No. 2306, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE INSURANCE";

S.B. No. 2438, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE MOTOR VEHICLE INDUSTRY LICENSING ACT";

S.B. No. 2607, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HAZARDOUS WASTE";

S.B. No. 2675, S.D. 1, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO MEDICARE SUPPLEMENT INSURANCE";

S.B. No. 2676, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE INSURANCE CODE";

S.B. No. 2684, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LICENSING OF DISPENSING OPTICIANS";

S.B. No. 2689, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE LICENSURE LAW FOR CHIROPRACTIC";

S.B. No. 2771, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FINANCIAL SERVICES LOAN COMPANIES";

Senator Ikeda, as an employee of a company that sells annuities, requested a conflict of ruling (re: S.B. No. 2771, S.D. 1, H.D. 1) by the Chair.

The Chair ruled that Senator Ikeda, who does not serve as a director of that company, was not in conflict.

S.B. No. 2777, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TRAVEL AGENCIES";

S.B. No. 2780, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TRAVEL AGENCIES";

S.B. No. 2826, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO RENTAL ASSISTANCE";

S.B. No. 2851, S.D. 2, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE PROTECTION AND ADVOCACY SYSTEM";

S.B. No. 2858, S.D. 1, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO HOUSING";

S.B. No. 2861, S.D. 1, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO RESIDENTIAL LEASEHOLDS";

S.B. No. 2885, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO HOUSING";

S.B. No. 3062, S.D. 1, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO HUNTING";

S.B. No. 3100, S.D. 2, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE RECODIFICATION OF THE FINANCIAL INSTITUTIONS LAWS";

S.B. No. 3186, S.D. 2, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE GENERAL EXCISE TAX";

S.B. No. 3237, S.D. 2, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO UNIVERSITY OF HAWAII";

S.B. No. 3278, S.D. 2, H.D. 2, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION TO REVIEW THE LAWS RELATING TO FINANCIAL INSTITUTIONS";

S.B. No. 3286, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC ACCOUNTANCY";

S.B. No. 3288, S.D. 2, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO ESCROW DEPOSITORIES";

S.B. No. 3306, S.D. 2, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INFECTIOUS AND COMMUNICABLE DISEASES";

S.B. No. 3340, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAKING OF MULLET AND LOBSTERS";

S.B. No. 3345, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING AERONAUTICS"; and

S.B. No. 3436, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO OSTEOPATHY,"

having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

At 3:02 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 3:26 o'clock a.m.

### FINAL READING

Conf. Com. Rep. No. 161 (S.B. No. 2361, S.D. 2, H.D. 1, C.D. 1):

Senator Ikeda moved that Conf. Com. Rep. No. 161 be adopted and S.B. No. 2361, S.D. 2, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Iwase.

Senator Ikeda rose to speak in support of the measure and remarked:

"Mr. President, I never thought we'd get here.

"I rise to speak in favor of this bill.

"Your Committee on Consumer Protection and Business Regulation has presented to this body four bills which make up our comprehensive package of reforms to the no-fault law. Two of these bills specifically address the uninsured motorist problem. They are S.B. 2306, S.D. 1, H.D. 1, which permits the counties to levy a \$100 penalty on any vehicle registration if the vehicle is uninsured. It also establishes a data base system which will identify and locate vehicles that are uninsured. This bill, if enacted, will go into effect January 1, 1993.

"And S.B. 2258, C.D. 2, which will allow the police to tow and impound an uninsured motor vehicle. Proof of insurance is required before the vehicle is released. These bills will certainly have a positive impact on the problem of uninsured vehicles and will ultimately reduce the number of uninsured cars on the road. The other two bills, this bill, and H.B. 3974, C.D. 1, which we passed earlier, represent a coalescence of approaches and alternatives to reduce and stabilize the cost of no-fault insurance.

"In order to reform the present system, we took the law back to its original intent, which was to eliminate 90% of the accident claims from the tort recovery system. We hope to accomplish this by modifying the formula by which the medical rehabilitative threshold is calculated. The threshold will be \$10,000 for the first year or until such time as the insurance commissioner determines otherwise.

"We have also eliminated the concept of stacking, a concept introduced by the courts, by providing that it be offered only as an option and with higher coverage limits.

"Mr. President, we believe that we have an obligation to keep premium costs as low as possible since insurance coverage is mandatory. We have, therefore, made adjustment to the minimum mandatory coverages and instituted a medical fee schedule. Surcharging by insurance companies for not having no-fault insurance will no longer be permitted unless the person has been convicted of that offense in the past three years.

"In addition, Mr. President, we are granting an amnesty period of six months following the effective date of this act to encourage people to get their cars insured.

"Most importantly, we are mandating an immediate rate freeze and beginning January 1, 1993, a 15% rate reduction. The insurance commissioner will then be responsible for monitoring the effects of these changes and

recommend further reductions in rates and/or changes to the law. The commissioner will also have the power of prior approval over any future rate increases.

"This bill also prohibits collusion between health care providers and attorneys by giving RICO, the Regulated Industries Complaint Office, the power to investigate and refer any violations to the appropriate regulatory body for disciplinary action.

"Mr. President, our primary goal throughout these deliberations has been to craft a law which will meet the needs of the consumer and I believe that this goal has been reached. This effort reflects more than a year's work, which included trips to other jurisdictions. It also represents a team effort by the committee, especially the conferees. These bills reflect the ideas and hard work of each and every member of the Conference Committee.

"I want to thank my vice-chair, Senator Iwase, who also served as legal counsel and as a stabilizing force in deliberations. He and Senator Matsuura authored the bills addressing the uninsured motorist problem. My thanks also to Senator Koki who worked on the prohibiting of collusion provision, and to Senator McCartney, who, despite the burdens of his arduous task reforming education, was there to lend support to the entire effort and developed the language that links these two bills.

"Recognition and gratitude should also be given to my House counterpart, Representative Hirono and her committee, who worked diligently to produce a fair and comprehensive package.

"Mr. President, some people may feel that this effort doesn't go far enough and others will feel that we did too much. I want to tell you that we moved with caution and restraint trying to balance the concerns of all involved. And I strongly believe that the people of this state will ultimately benefit from our efforts. Thank you."

Senator McCartney also rose to speak in support of the bill and said:

"Mr. President, I rise to speak in support of the measure.

"I would like to commend the chairman for moving forward with the bill, making some tough and difficult decisions, listening to members, and putting together a package that brings about reform in the no-fault insurance problem.

"You know, Mr. President, the doctors, the lawyers, the insurance companies, all took a step back in this bill in order for consumers to take one step forward. This bill is balanced, it's fair, it's equitable, and without doubt, Mr. President, the consumers clearly win.

"I urge my colleagues to support the bill. Thank you."

Senator Solomon also supported the measure as follows:

"Mr. President, I will be voting for this bill and I want to commend the chairman and committee for their hard work. I know many compromises were made and met in an effort to bring about tort reform that would benefit the consumer. However, Mr. President, should this tort reform not benefit the consumer, that we would take definite action to be sure it occurs.

"We have many unanswered questions, Mr. President, that needs to be answered. Like, how much money would be needed to fund the data base to track the uninsured motorist? In fact, Mr. President, the chairman mentioned

rates in terms of increases. What about rates in terms of decreases? I think that these are all issues that need to be discussed in the future. I am hoping, Mr. President, that the chairman, as well as her committee members, will be taking that into consideration and will be able to provide those answers to us in the upcoming session. Thank you very much."

Senator Iwase also supported the bill and remarked:

"Mr. President, I rise to speak in support of the bill.

"I would also like to join the Senator from the Windward side in commending the chair. This was a very complex bill. It required the balancing of many interests, meeting the demands of many factions. The work of both Senator Ikeda and Representative Hirono was commendable. Without their efforts this bill could not have proceeded.

"With respect to the comments of the previous speaker, I think those comments are well taken. The bill itself does provide that the insurance commissioner will continue to monitor the operation of this act during the next year to look at whether or not rate reductions can continue, whether adjustments have to be made, whether any other amendments to the law should occur, and to recommend those amendments. This is not the end of the no-fault issue. It is the beginning; it's a new beginning and it is a hope that through a concerted effort over a period of time we will not only get back to but maintain the 90-10 goal which was sought in 1973 when the Legislature enacted this law.

"Again, I would commend the work of the chair of the Consumer Protection Committee. Thank you, Mr. President."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 161 was adopted and S.B. No. 2361, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO NO-FAULT INSURANCE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 162 (S.B. No. 2547, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator B. Kobayashi and carried, Conf. Com. Rep. No. 162 was adopted and S.B. No. 2547, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO GRANTS, SUBSIDIES, AND PURCHASES OF SERVICE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Levin). Excused, 1 (Reed).

#### RECONSIDERATION OF ACTION TAKEN

Conf. Com. Rep. No. 143 (H.B. No. 3838, H.D. 2, S.D. 2, C.D. 2):

Senator Yamasaki moved that the Senate reconsider its action taken on April 29, 1992, in adopting Conf. Com. Rep. No. 143 and the passage of Final Reading of H.B. No. 3838, H.D. 2, S.D. 2, C.D. 2, seconded by Senator Chang.

On motion by Senator Yamasaki, seconded by Senator Chang and carried, Conf. Com. Rep. No. 143 was adopted and H.B. No. 3838, H.D. 2, S.D. 2, C.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE ENVIRONMENT," having been read throughout, passed

Final Reading on the following showing of Ayes and Noes:

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

At 3:36 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 3:55 o'clock a.m.

#### MESSAGE FROM THE GOVERNOR

Gov. Msg. No. 365, dated April 30, 1992, transmitting the Executive Order providing for a further extension of the Regular Session of 1992 of the Sixteenth State Legislature, as follows:

##### "EXECUTIVE ORDER

WHEREAS, Section 10 of 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 to which each house is entitled or may be granted by the governor'; and

WHEREAS, pursuant to said Section 10 of Article III, the Regular Session of 1992 of the Sixteenth Legislature of the State of Hawaii has been extended; and

WHEREAS, the Governor has been requested to grant a further extension and it appears that such a further extension is necessary;

NOW, THEREFORE, I, JOHN WAIHEE, Governor of Hawaii, pursuant to the power vested in me by Section 10 of Article III of the Constitution of the State of Hawaii, do hereby extend the Regular Session of 1992 of the Sixteenth Legislature of the State of Hawaii for a period of one hour following 4:00 a.m., April 30, 1992.

DONE at the State Capitol,  
Honolulu, State of Hawaii,  
this 30th day of April, 1992.

/s/ John Waihee  
JOHN WAIHEE  
Governor of Hawaii"

was read by the Clerk and was placed on file.

#### RECONSIDERATION OF ACTION TAKEN

Conf. Com. Rep. No. 139 (H.B. No. 602, H.D. 2, S.D. 1, C.D. 1):

Senator Yamasaki moved that the Senate reconsider its action taken earlier on the calendar on Conf. Com. Rep. No. 139 and the H.B. No. 602, H.D. 2, S.D. 1, C.D. 1, seconded by Senator Solomon.

Senator Blair rose to speak against the reconsideration of action as follows:

"Mr. President, I rise to speak against the motion to reconsider.

"House Bill 602 is a very good and important bill, for the institutions of the Senate and the Judiciary. We did the right thing in passing it and would be making a big mistake if we were to reconsider the action taken.

"The importance of this bill has to do with two elements in particular. One addresses a situation that has developed over the years. District court judges, usually four, sit more or less permanently as circuit judges. They

are replaced at the district court level by per diem judges. The consequences of this are and have been detrimental to the constitutional process of judicial selection. I'm not the first chairman of the Judiciary Committee to notice this. I recall Senator Hee, when he was chairman, bringing this to our attention.

"This situation must be understood in terms of the judicial selection process. When per diem judges are selected, the Judicial Selection Commission does not submit a list of names. The chief justice of the Supreme Court, acting on unilateral discretion, chooses individuals to be per diem judges. They serve at the district court level and replace district court judges who serve at the circuit court level. The problem is compounded because we have district court judges, serving at the circuit court level, who were not appointed by the governor and were not advised and consented to by the Senate. This fundamentally is in contravention of the way that the selection of judges is structured in our Constitution. It undercuts the role of the Senate, as well as the role of the governor.

"In short, the process of moving the per diem judges in at the bottom and pushing everybody up results in a great deal of discretion being given to the chief justice and diminishes the roles of the Senate, the Judicial Selection Commission and the governor in the process of selecting judges.

"This bill attempts to address that situation in a manner that is not too aggressive. It merely asks the chief justice to submit a plan to us next year, at the beginning of our budget cycle, on how we can reduce the use of per diem judges to a minimum. I do believe that there will always be a need for some per diem judges. It's just that it's gotten out of hand. If this is accomplished in the next budget cycle, it will free up money that is currently being used for per diem judges to fund some of the circuit court positions which are authorized in this bill.

"The process of pushing the per diem judges in at the bottom will be reversed. We'll be adding circuit court judges, who will go through the appropriate Judicial Selection Commission process, the gubernatorial appointment process, and have the advise and consent by the Senate. In doing so, the circuit court judges will be properly appointed; the district court judges will stay in the district court, and we won't need to utilize per diem judges to the extent that we currently do.

"In anticipation of this taking place, the bill provides authority for an additional number of circuit court judges. When you look at that section of the bill, Section 3, it looks like a dramatic increase in the number of circuit court judges. The reason for that is that we already have, earlier this year, provided for the 18th judge in a separate bill which the governor has signed. This year's judiciary budget, I believe, provides for the 19th and perhaps the 20th judge. The removal of the per diem money in the next budget cycle should fund at least the 21st through the 23rd judge. So while it looks like we have greatly increased the number of judges at the circuit court level, it really isn't as dramatic as it appears.

"The thrust of this bill is to restructure the system so that we play our proper role, the governor plays his proper role, and that the citizens of the state get the judicial system which our Constitution provides for.

"The only other element of this bill which may have created even the slightest controversy is with the provision which provides that jury trial for drunk-driving cases can be heard at the district court level, as well as the circuit court level. There's been a great deal of discussion about

DUI cases in the Senate. I have advocated that we not have jury trials for drunk-driving cases. I have not pursued that position in this bill. It does not reflect any desire to do away from jury trials for drunk-driving cases. Quite the contrary, it explicitly provides for jury trials at the district court level. It simply gives the flexibility to the judiciary to have these trials at either level.

"It is unfortunate that we don't have enough money to fund our judicial system at a level that allows us to have trials set expeditiously. I recognize that the needs for housing and the needs for education preclude our doing that this year. I think, however, we have to recognize that when we have a system that does not set cases expeditiously, problems are compounded. In most litigation situations, somebody has an incentive to delay. Somebody doesn't want the day of reckoning to arrive. If we build delay into the system, the ability of the parties to settle the cases is impaired. Settlements have a tendency to occur on the eve of trial, for the same reasons of human nature that causes us to be here today. It's not much different in the litigation process. So, as a consequence of our underfunding the judiciary because we need to prioritize, we have increased incentives for parties to delay the process of settlement. This results in further clogging the trial calendars. This bill doesn't resolve the problem, but it is hoped that it will help to prevent it from becoming a lot worse.

"I urge the members to support the need for a relatively efficient judicial system which reflects the Constitution and which reflects our role in advising and consenting to judicial appointments at the circuit court level and the governor's role in making those appointments, and the role of the Judicial Selection Commission. We should not reconsider the action taken on this bill. It is a good bill.

"Thank you."

Senator Cobb then rose on a point of information as follows:

"Mr. President, I rise on a point of information.

"In view of the preceding remarks by the Judiciary chairman I would like to hear the reasons for or why this bill is being reconsidered in its action."

Senator Yamasaki, in support of the reconsideration of action taken, stated:

"Mr. President, speaking in favor of the reconsideration of the bill.

"Mr. President, I think that the number of new judges that are requested in this bill, 8 circuit court judges and one in the appellate court, amounts to approximately \$1.5 million or more for the next session of the Legislature, and I think it's premature for us to authorize the positions now when we are in a serious economic situation. I think that we ought to have the judiciary come before us and request for the additional positions next session so that we can seriously consider their request and tell us how they plan to place the new judges in the circuit court of the State of Hawaii.

"I think that we are jumping the gun right now in trying to establish positions when we don't have the full program before us and how the judiciary is going to accommodate this request that individual proponents are pushing for. I think that this is really premature. I think that we ought to give serious consideration during the next session."

Senator Fernandes Salling, speaking in support of the reconsideration of action taken, stated:

"Mr. President, I rise to speak in support of the previous speaker.

"But, first of all, I would like to say thank you to Senator Blair for his reconsideration of the jury trial issue and that I agree that he did take care of that matter in this bill by providing that it be handled in the district court or the circuit court.

"But speaking in support of the previous speaker, the issue really here is one to do with money. As I understand the original request from the judiciary was for two positions, two circuit court positions I believe, and one intermediate appellate court position, and so what we have before us now is a bill requesting 7 circuit court positions and one intermediate appellate court position, which would require additional facilities, additional staffing, bailiffs, all sorts of other things that come along with circuit court judges. Thank you."

Senator Blair then responded:

"Mr. President, I would like to clarify a couple of points.

"The reason the chief justice does not request the additional positions is because he's happy the way things are. He gets to appoint, without the Judicial Selection Commission limiting his discretion, the per diem judges. He's not among those whose constitutional role has been undercut by this process. We are. If we wait for him to take care of the situation that increase the discretion of the chief justice, we may have a very long wait. It will be a very unsatisfying wait for those who appreciate the role of the Senate in the advise and consent process. I hope that we will not wait for the chief justice to correct the situation; because, if that's the case, we may have to continue the excessive funding of per diem judges, in lieu of filling our own role as the Constitution mandates it, for a long time.

"With respect to the issue of whether there will be facilities for these judges, I repeat what I stated previously. We're not talking about new judges to the extent that's been suggested. The new judge positions are actually in the current per diem budget, for the most part. What we're talking about here is replacing per diem judges. Per diem judges don't hold their judicial sessions on the street corners. They use court rooms. When we replace those per diem judges with circuit court judges, the space that is being utilized by the per diem judges is freed up. The system, instead of being pushed up from the bottom, will be pushed down from the top so that everything is corrected to the way the Constitution intended it to be. Those perceived problems are not in fact actual problems.

"Again, I urge the members not to reconsider their action. Thank you."

At 4:09 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 4:16 o'clock a.m.

Senator Fernandes Salling again rose to speak in support of the reconsideration of action and stated:

"Mr. President, initially, I think what the Senator was trying to do as he had indicated to us earlier on in the session was to find a way to deal with the backlog created by the supreme court decision that stated that jury trials would be required for DUI cases and there is a large backlog of cases there. By adding the provision in this bill stating that the district courts now can handle these

jury trials and, yet, rather than adding positions to the district court the Senator has added 7 more positions to the circuit court. It's my belief that in order for us to efficiently handle this large backlog in the district court that we're going to have to have the use of some of those per diem judges who do float, and when they float they're using the facilities that are already there, that are provided for those district court judges already in place.

"And, whereas, with respect to providing new positions and new circuit court judges, I just don't see how we can do that without providing those judges a courtroom, a bailiff, a secretary, a clerk, all of the things that the circuit court judges have today in order to deal with the backlog and that is a problem. And to deal with it as the Senator has wanted to in the district court and concurrently in the circuit, but I believe primarily it would be that way in the district court, I once again restate that I think it's necessary for us to either add more positions to the district court and talk about the process of confirmation in that manner, or leave it at status quo and use the per diem district court system as it operates today and let the supreme court know that this is the kind of practice, however, that we will not tolerate in the future and that we must be able to deal with the caseload in both the circuit court level and the district court level in the proper manner, which is not through the use of the per diem judges.

"But I really firmly believe that in order to effectively deal with that huge backlog of DUI cases and to do it in the manner that is being suggested in this bill, we are going to have to use those per diem district court judges, and without having to provide those facilities and spend the kind of money which we don't have immediately because of the floating of these judges. In the alternative, rather than add, as I said earlier, 7 new circuit court judges to perhaps add the two or three or four new district court judges.

"I just felt that that was something that needed to be clarified when I thanked the Senator for agreeing to accept the position of the supreme court with respect to jury trials being required for those who have been charged with driving under the influence."

Senator Matsuura, on clarification, said:

"Mr. President, sometimes you have to have non-lawyers to understand this issue so I'm going to take a stab at this and anytime I say something incorrect that you disagree with maybe you can correct me.

"It appears to me that this legislation will allow at the district court level to do the DUI cases. Right now, it is only at the circuit level. In both the district and circuit courts you do the DUI cases with jury trial. I understand that to be the fact. Is that correct? All right. That's one.

"The second point is in terms of the money. It appears that there is (I'm just going to use some figures here) \$1.5 million in the budget, and that amount of money is presently being used to hire per diem district court judges to do whatever court cases there exist. What the bill does is increase the number of circuit court judges. The reason for doing this is that at least in the circuit court, the judges go through a selection committee procedure and they come to our Senate body for confirmation. Presently, the CJ can appoint the district court judges by himself and himself only. There's no confirmation. It is the same with the per diem judges. He can appoint them as he likes. Is this correct?"

Senator Blair then responded:

"Mr. President, with respect to district court judges, the chief justice does select them but he selects them from a list that is submitted by the Judicial Selection Commission. His discretion is circumscribed with respect to district court judges.

"With respect to per diem judges, the chief justice's discretion is not limited to a list submitted to him by the Judicial Selection Commission.

"I'd also like to clarify something else. I don't want to give the members the impression that the chief justice is against this bill. The chief justice recognizes that we're not doing things the way the Constitution says we ought to do them. I don't speak for him -- but he is as concerned about the Constitution as anyone else in this state. He has dealt with judicial appointments in this fashion because of the exigencies of the circumstances. We have allowed the situation to come about, so I don't want to cast the chief justice as a Machiavellian figure who is taking advantage of a system of his own creation. He is trying to accommodate the demands for trials as best he can. In the course of doing so, serendipitously, he has come to have more of a role than was envisioned by the drafters of the Constitution. His enhanced role may take away some of the incentive to change things. But I don't mean to portray him as being against this bill or in favor of the status quo. I think that would be an injustice to him.

"One other point of clarification. The suggestion was made that we ought to be putting these positions at the district court level. We accomplished that. You will recall that I described how per diems go in at the bottom. They push the district court judges up to the circuit court level. By the new judges in at the circuit court level, we can return the four district court judges, who are now serving as acting circuit court judges, to the district court. By filling the slots at the circuit court level, we are moving four district court judges back where they constitutionally belong. It's true we are creating additional circuit court judges, but there's plenty of work for them to do. They're just doing the circuit court work that's presently being done by acting circuit court judges. So this bill is not loading the wrong level of the system. We're loading the correct end of the system. In doing so, we're re-balancing the system. Thank you."

Senator Matsuura then continued:

"I just have one question for the chairman of Judiciary.

"When it comes to the money part, are we going to be committed for more money next year?"

Senator Blair answered:

"Mr. President, it's very complex in the sense that there are efficiencies that are attendant to having full time judges that you don't have with per diem judges. On the other hand there are efficiencies in terms of the pay associated with the per diem judges and some of the flexibilities. So it's difficult to say how the cost will offset each other. I cannot tell you exactly that we will save money or that it will cost us money but the difference will be marginal. That's my impression.

"In any event, the way this bill is structured, that decision will be made next year when the report comes back from the chief justice. It will point all of these considerations and decision will be made in the course of the next biennial budget, not by the Judiciary Committee but by the Ways and Means Committee, with full authority and discretion to do what the fiscal situation at that time requires or allows.

"I hope things will be less bleak but I can't count on it. I certainly don't want to set up a system that presumes a surplus."

At 4:27 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 4:43 o'clock a.m.

On motion by Senator Solomon, seconded by Senator Yamasaki and carried, the Senate withdrew its motion to reconsider its action taken on Conf. Com. Rep. No. 139 and H.B. No. 602, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE JUDICIARY."

### SENATE RESOLUTIONS

The following Senate resolutions (S.R. Nos. 213 to 220) were read by the Clerk and were disposed of as follows:

Senate Resolution:

No. 213 "SENATE RESOLUTION RECOGNIZING WITH GRATITUDE EACH OF THE MINISTERS OF RELIGION WHO OPENED A DAY OF THE SENATE, SIXTEENTH LEGISLATURE OF THE STATE OF HAWAII, REGULAR SESSION OF 1992, WITH AN INSPIRATIONAL INVOCATION."

Offered by: Senators Hagino, George.

On motion by Senator Solomon, seconded by Senator George and carried, S.R. No. 213 was adopted.

No. 214 "SENATE RESOLUTION EXPRESSING DEEPEST APPRECIATION TO THE MEMBERS OF THE VARIOUS MEDIA FOR THEIR COVERAGE OF THE ACTIVITIES OF THE SIXTEENTH LEGISLATURE, REGULAR SESSION OF 1992."

Offered by: Senators Hagino, George.

On motion by Senator Solomon, seconded by Senator George and carried, S.R. No. 214 was adopted.

No. 215 "SENATE RESOLUTION REGARDING COMPLETION OF THE WORK OF THE SIXTEENTH LEGISLATURE SUBSEQUENT TO THE ADJOURNMENT THEREOF."

Offered by: Senators Hagino, George.

On motion by Senator Solomon, seconded by Senator George and carried, S.R. No. 215 was adopted.

No. 216 "SENATE RESOLUTION INFORMING THE HOUSE AND GOVERNOR THAT THE SENATE IS READY TO ADJOURN SINE DIE."

Offered by: Senators Hagino, George.

On motion by Senator Solomon, seconded by Senator George and carried, S.R. No. 216 was adopted.

No. 217 "SENATE RESOLUTION RETURNING ALL BILLS, CONCURRENT RESOLUTIONS, AND RESOLUTIONS TO THE CLERK'S DESK."

Offered by: Senators Hagino, George.

On motion by Senator Solomon, seconded by Senator George and carried, S.R. No. 217 was adopted.

No. 218 "SENATE RESOLUTION RELATING TO THE PRINTING OF THE JOURNAL OF THE SENATE."

Offered by: Senators Hagino, George.

On motion by Senator Solomon, seconded by Senator George and carried, S.R. No. 218 was adopted.

No. 219 "SENATE RESOLUTION AUTHORIZING THE PRESIDENT TO APPROVE THE JOURNAL OF THIS SENATE FOR THE SIXTY-THIRD DAY."

Offered by: Senators Hagino, George.

On motion by Senator Solomon, seconded by Senator George and carried, S.R. No. 219 was adopted.

No. 220 "SENATE RESOLUTION AUTHORIZING THE PRESIDENT TO DESIGNATE THE EMPLOYEES WHO WILL WORK AFTER ADJOURNMENT."

Offered by: Senators Hagino, George.

On motion by Senator Solomon, seconded by Senator George and carried, S.R. No. 220 was adopted.

Senator Tungpalan then rose to speak on a point of personal privilege and said:

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

"Before this session closes, I would like to express my hope that the work that we have done in preserving our cultural sites will continue. I think it's vitally important that the interim period be used to strengthen the Legislature's capacity to deal with these major issues. I have come to realize that we need more time to pay attention to how we contract for the services of private organizations, how we monitor their fulfillment of their contract obligations, how accountable they are in carrying out the people's business and more. During this session we have deliberated seriously about the state contracts. This will continue to be the case in the area of historic preservation.

"I am announcing at this time that the Senate Committee on Culture, Arts and Historic Preservation will undertake some interim work focusing first on contracts that the state has struck with the Bishop Museum, especially with respect to their H-3 archaeological survey.

"I realize now that the controversies that we have been faced with this session are related in part to problems of contract administration. And I have requested that certain materials be furnished concerning these contracts and am in the process of researching the applicability of federal laws in this area. Whatever the case, I would like to say that as a policy matter these materials should be made available as public funds are involved.

"Thank you, Mr. President, for allowing me this opportunity for a point of personal privilege."

At this time, the President delivered the following closing remarks:

"Members of the Senate,

"Our work is done. The hour is late.

"This 1992 Legislative Session is drawing rapidly to a close.

"The session has not been an easy one. In the face of declining state revenues, we had to make some drastic cuts in the budget. Tough choices were taken, tough decisions were made. Many worthwhile programs had to be cut back. However, we were able to provide some \$16

million in supplemental funding for education, which was one of our top priority concerns this year.

"Despite some problems, I think the record of this Legislative Session is one of solid accomplishments.

"We've passed no-fault car insurance reform which will hopefully reduce insurance premium costs for our people.

"We've moved forward with legislation on educational reform and governance. The Legislature is committed to improving public education in Hawaii and this is a major step in that direction.

"We've banned assault handguns, for which I am personally very gratified. Again I must thank the chair of the Judiciary Committee for a job well done.

"We've passed a good package of housing bills, with particular emphasis on meeting Hawaii's need for affordable rental housing.

"We've passed legislation to address the fuel oil crisis on the neighbor islands by setting up a mechanism for them to use environmentally safer fuels. On a personal note, I think this crisis underscores the need for us to develop indigenous energy sources - such as geothermal - as well as the need to develop the means to transmit that energy between the islands.

"I could go on about our accomplishments but, at this late hour, I'm sure you don't want to hear me talk.

"Senators, I just want to say thank you. Believe it or not, I've enjoyed working with you during the course of this session. As always, you are a big part of my life. I feel a lot of aloha for all of you. For those of you who are running for re-election, my very best wishes for your success. You have all tried to serve your constituents conscientiously and to the best of your ability. They will be well served to return you back here next year.

"When that time arrives, I'll look forward to seeing you again from the vantage point of this podium . . . not!

"Senators, all kidding aside, good night. Go home. Rest up. Drive safely. Aloha."

Senator George, Minority Leader, then responded as follows:

"On Opening Day -- in the grand building up the street -- I remarked about growing public discontent with government, and with those of us who are part of the system.

"I mentioned the new breeze that's ruffling constituent feathers all across the country, not just in our own back yard.

"It's been three and a half months since that opening ceremony, and my mail and my phone calls and my faxes tell me that there hasn't been any big increase in the number of happy campers out there.

"And the media and the surveys show that it's still a national sentiment. Politicians are just plain not going to win many popularity contests this year.

"It's too early to grade this session -- many of us will get our report cards in November. But it may be useful to remind ourselves that much of what we did this session was in response to intense pressure from the public. What happened with education is perhaps the best example.

"Perhaps the only reason we didn't respond to the current 70% negative rating on Honolulu transit is that the ball is now in the city's court, and it's up to them to decide whether or not to proceed with the project.

"It's also interesting to note that we gave the budget much closer scrutiny, not just because people were watching, but because we had a lot less to spend. We should remember that careful oversight is our job -- no matter who is watching or how much money there is.

"All things considered, there are signs that incumbency may be turning from a solid advantage to a precarious liability.

"We don't need to quote Lincoln to be reminded that government belongs to the people.

"It's theirs, and if we don't meet their standards, they're going to want it back.

"Aloha. May we all fare well."

Senator Matsuura then rose on a point of personal privilege and said:

"Mr. President, many of the people are wondering whether you and Senator Yamasaki will be coming back. But let me just make one point. I think that in the history of Hawaii if there ever was a need for a leader in the Senate, this coming session is the year, and I hate to say this, but your service is needed so you cannot retire! Senator Yamasaki has served 35 years. I don't know how he survived this long. I'm already tired after 12 years. I've seen him work and, I'm telling you, I'm very impressed. I'll come and campaign for both of you. We hope that both of you would at least consider taking out nomination papers because, I am telling you, Senator Dickie Wong, the state and the people of Hawaii need that leadership now and that goes for Senator Yamasaki. I say that from the bottom of my heart. I know the rest of the Senators here all agree with me because nobody wants to be president."

The Chair responded:

"The foregoing was a paid political announcement."

#### ADJOURNMENT

Senator Solomon moved that the Senate of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1992, adjourn Sine Die, seconded by Senator George and carried.

At 4:50 o'clock a.m., the President rapped his gavel and declared the Senate of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1992, adjourned Sine Die.