

**JOURNAL**  
**of the**  
**SENATE OF THE**  
**SEVENTEENTH LEGISLATURE**  
**of the**  
**STATE OF HAWAII**

---

**Special Session of 1993**

**Convened Monday, August 23, 1993**  
**Adjourned Monday, September 13, 1993**

## TABLE OF CONTENTS

	PAGE
First Day, Monday, August 23, 1993 .....	1
Second Day, Tuesday, August 24, 1993 .....	3
Third Day, Wednesday, August 25, 1993 .....	4
Fourth Day, Thursday, August 26, 1993 .....	9
Fifth Day, Friday, August 27, 1993 .....	17
Sixth Day, Wednesday, September 1, 1993 .....	22
Seventh Day, Thursday, September 2, 1993 .....	23
Eighth Day, Friday, September 3, 1993 .....	24
Ninth Day, Tuesday, September 7, 1993 .....	26
Tenth Day, Wednesday, September 9, 1993 .....	27
Eleventh Day, Monday, September 13, 1993 .....	33
 Communications received after adjournment:	
Governor's Messages .....	34
House Communications .....	34
 Appendix:	
Standing Committee Reports .....	35
 History:	
Senate Bills .....	42
Senate Concurrent Resolutions .....	43
Senate Resolutions .....	44
House Bills .....	45

THE  
SEVENTEENTH LEGISLATURE  
STATE OF HAWAII  
SPECIAL SESSION OF 1993  
JOURNAL OF THE SENATE

FIRST DAY

**Monday, August 23, 1993**

The Senate of the Seventeenth Legislature of the State of Hawaii, Special Session of 1993, was called to order at 10:10 o'clock a.m., by Senator James Aki, President of the Senate, in accordance with the Proclamation issued by Governor John Waihee on August 12, 1993, as follows:

**MESSAGE FROM THE GOVERNOR**

Gov. Msg. No. S1-93 transmitting the proclamation convening the Legislature of the State of Hawaii in special session on Monday, August 23, 1993:

"P R O C L A M A T I O N"

WHEREAS, under Section 10 of Article III of the Constitution of the State of Hawaii, the Governor may convene both houses of the Legislature or the Senate alone in special session; and

WHEREAS, the Governor believes that there are important matters requiring immediate consideration by the Legislature;

NOW, THEREFORE, I, JOHN WAIHEE, Governor of the State 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 convene both houses of the Legislature of the State of Hawaii in special session on Monday, the 23rd of August, 1993, at 10:00 o'clock a.m.

DONE at the State Capitol,  
Honolulu, State of Hawaii,  
this 12th day of August, 1993.

/s/ John Waihee  
JOHN WAIHEE  
Governor of Hawaii

**APPROVED AS TO FORM:**

/s/ Robert A. Marks  
ROBERT A. MARKS  
Attorney General"

was read by the Clerk and was placed on file.

The Divine Blessing was invoked by Chaplain Leatapo Fesili, Queen's Medical Center, after which the Roll was called showing all Senators present with the exception of Senator Reed who was absent.

**SENATE RESOLUTION**

The following resolution (S.R. No. S1-93) was read by the Clerk and was referred to committee:

Senate Resolution

No. S1-93      "SENATE                      RESOLUTION  
AUTHORIZING THE SPECIAL COMMITTEE ON THE

EMPLOYEES' RETIREMENT SYSTEM AND GOVERNMENT PROCUREMENT TO EXERCISE INVESTIGATIVE POWERS IN ACCORDANCE WITH CHAPTER 21, HAWAII REVISED STATUTES."

Offered by: Senators Aki, Matsuura, George, Matsunaga, McCartney.

Referred: Committee on Legislative Management.

At 10:15 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 10:16 o'clock a.m.

At this time, Senator Ikeda, for the Committee on Consumer Protection, in accordance with Rule 21 of the Rules of the Senate, requested a waiver of the required hours of notice. On a proposed bill relating to no-fault insurance, the Chair granted the waiver.

Senator Ikeda, on a point of personal privilege and inquiry, then asked if the Vice President would yield to a question. The Chair posed the question to the Vice President and the Vice President having answered in the affirmative, Senator Ikeda asked:

"Mr. President, I would like to know whether or not the Vice President, as our chief negotiator on the convention center, has reached an agreement with the House?"

Senator Holt responded:

"Mr. President, the Senate and the House are very close. We are still in negotiations, although deadlocked, and we have not reached an agreement as of this moment."

Senator Ikeda then continued and stated as follows:

"Mr President, the Speaker has said that he will introduce a convention center bill this morning in order to keep the issue alive, negating the previous agreement with Senate leadership that no bill will be introduced unless there was agreement in both Houses.

"For the leader of the House to unilaterally take negotiations on the convention center issue and then break previously made agreements because he is unable to get his own way is unconscionable and displays a clear lack of integrity. The Senate is attempting to work out these difficult issues in good faith but it is a disappointment to this body and a disservice to the people of this state that we should have to do so in an atmosphere of grandstanding and commitment breaking.

"Nevertheless, the Senate will continue working to our previously agreed upon goals and will do so confident that our final product will be one that best meets the needs of our state and the people who trust us to represent them in such important matters.

"In addition, the Speaker of the House wants us to spend more than \$350 million to build a convention center. Mr. President any excess spending will have to come about by way of a tax increase. We know that a convention center can be built for \$350 million. That was our stated goal, it is stated in our criteria and we intend to abide by it. We have thoroughly reviewed the numbers and they withstand the closest scrutiny. We have promised the taxpayers of this state that we will stay within this amount, and we will. The Senate, in good conscience, will not commit or divert one more dollar of public funds to this endeavor over and above \$350 million.

"Thank you."

Senator Holt also rose to speak on a point of personal privilege as follows:

"Mr. President, on a point of personal privilege on a separate issue, not related to the convention center. Yesterday, we issued a statement in response to the Speaker of the House's earlier public statement about the Senate's position and we thought we clarified the Senate's position to the highest terms of where we were headed. Apparently, the House does not understand our position and the Speaker came out with another press statement last evening at 9:35 and insisted that our position contradicts the criteria that we have established and I just want to make it perfectly clear, and I promise not to stand up anymore and make statements regarding the Senate's position on this criteria, we have agreed with the House, we have stuck with the criteria that the industry has established, we have not deviated on it one bit. We are applying that criteria to all sites and our position is consistent, it's not contradictory. If a site, whether it be the entire or less than the entire property of a site, does not fit the criteria, then that site is rejected. So I don't understand the concern on the part of the House. If the criteria does not apply then the site will be rejected. It's pretty clear to me.

"Thank you."

#### INTRODUCTION OF SENATE BILLS

On motion by Senator Ikeda, seconded by Senator George and carried unanimously, the Clerk was authorized to receive bills for introduction prior to 10:00 o'clock p.m. and said bills pass First Reading by title and referred to committees. In consequence thereof and subsequent to its recessing at 10:23 o'clock a.m., the Senate took the following action:

Senate Bill

No. S1-93 "A BILL FOR AN ACT RELATING TO NO-FAULT INSURANCE."

Introduced by: Senators Ikeda, Iwase, McCartney, Matsunaga, Kobayashi, B., Tungpalan, Matsuura, Aki, Kanno, Holt, Chang, Kobayashi, A., Levin, Nakasato.

Referred: Committee on Consumer Protection

#### ADJOURNMENT

At 10:00 o'clock p.m., the Senate adjourned until 10:00 o'clock a.m., Tuesday, August 24, 1993.

## SECOND DAY

**Tuesday, August 24, 1993**

The Senate of the Seventeenth Legislature of the State of Hawaii, Special Session of 1993, convened at 10:04 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by Reverend Brian Baker, Church of the Holy Nativity, after which the Roll was called showing all Senators present with the exception of Senator Koki who was excused and Senator Reed who was absent.

The President announced that he had read and approved the Journal of the First Day.

At 10:07 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 10:15 o'clock a.m.

#### SENATE CONCURRENT RESOLUTION

The following concurrent resolution (S.C.R. No. S1-93) was read by the Clerk and was referred to committee:

Senate Concurrent Resolution

No. S1-93 "SENATE CONCURRENT RESOLUTION REQUESTING A PLAN OF ACTION FOR A MORE EFFICIENT PROCUREMENT SYSTEM."

Offered by: Senators Kobayashi, A., Chang.

Referred: Jointly to the Committee on Ways and Means and the Committee on Government Operations, Environmental Protection and Hawaiian Programs.

#### SENATE RESOLUTION

The following resolution (S.R. No. S2-93) was read by the Clerk and was referred to committee:

Senate Resolution

No. S2-93 "SENATE RESOLUTION REQUESTING A PLAN OF ACTION FOR A MORE EFFICIENT PROCUREMENT SYSTEM."

Offered by: Senators Kobayashi, A., Chang.

Referred: Jointly to the Committee on Ways and Means and the Committee on Government Operations, Environmental Protection and Hawaiian Programs.

At this time, Senator Bertrand Kobayashi, for the Committee on Legislative Management, requested a waiver of the required hours of notice of a public hearing on S.R. No. S1-93, and the Chair granted the waiver.

Senator Ann Kobayashi, for the Committee on Ways and Means and the Committee on Government Operations, Environmental Protection and Hawaiian Programs, also requested a waiver of the required hours of notice of a public hearing on S.C.R. No. S1-93 and S.R. No. S2-93, and the Chair granted the waiver.

Senator Ann Kobayashi then rose on a point of personal privilege and stated as follows:

"Mr. President, I'd like to say how disappointed I am that there is no procurement code bill on our desks. However, the resolutions have been introduced and we hope we'll settle the concerns of the House.

"I also would like to point out that the media always refers to the Senate as wanting a purchasing czar and that this is what is holding up negotiations. That is really far from the truth. The House and the administration want the comptroller to also be the chief procurement officer and, to me, that would create a czar. And so the Senate is holding fast to our position that this person be independent and be appointed by a counsel of five members, three of which are public members. I wish that will be corrected and that it's the Senate that is opposing the idea of creating a czar.

"Thank you."

#### STANDING COMMITTEE REPORT

Senator Ikeda, for the Committee on Consumer Protection, presented a report (Stand. Com. Rep. No. S1-93) recommending that S.B. No. S1-93 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Ikeda, seconded by Senator George and carried, the report of the Committee was adopted and S.B. No. S1-93, entitled: "A BILL FOR AN ACT RELATING TO NO-FAULT INSURANCE," passed Second Reading and was placed on the calendar for Third Reading on Wednesday, August 25, 1993.

#### ADJOURNMENT

At 5:45 o'clock p.m., on motion by Senator Ikeda, seconded by Senator George and carried, the Senate adjourned until 10:00 o'clock a.m., Wednesday, August 25, 1993.

## THIRD DAY

Wednesday, August 25, 1993

The Senate of the Seventeenth Legislature of the State of Hawaii, Special Session of 1993, convened at 10:10 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by the Reverend Jon Bullock, Metropolitan Community Church, after which the Roll was called showing all Senators present with the exception of Senator Reed who was excused.

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

The following introductions were then made to the members of the Senate:

Senator Ikeda introduced the "Hawaii Rainbows" baseball team, as follows:

"Mr. President, it gives me great pleasure this morning to introduce a truly outstanding baseball team, the 'Hawaii Rainbows.' This team of nine-year-old youngsters recently won the Continental Amateur Baseball Association World Series in Charles City, Iowa. They finished with an impressive record of 15 - 1.

"It is an honor and a pleasure to introduce to this body, head coach Alex McAngus, assistant coach Kala Kaaihue, assistant coach Jim Peters and two of the players, Waipa Nishimura and Bryson Villanueva, co-captains.

"Also, in the audience are team members: Corey Higa, Brandon Isaacs, Kila Kaaihue, Kala Kaaihue, Tatum Kaneta, Zachary McAngus, Jason Peters, Christopher Putt, and Geoffrey Say. They are accompanied by family members, parents and team supporters.

"Thank you very much for doing an outstanding job."

Senator Ikeda also introduced Mr. Sammy "Steamboat" Mokuahi Jr. and Ms. Teddi Anderson of the Hui Nalu Canoe Club, as follows:

"Mr. President, also with us this morning are the coaches of another state championship team, the Hui Nalu Canoe Club. This club captured the Hawaiian Canoe Racing Association State Championship by winning six races and defeating their nearest competitors by 10 points in the AAA division. They were also undefeated in all of the Oahu regattas and, Mr. President, leadership made the difference. In less than two years, coach Sammy "Steamboat" Mokuahi Jr., turned this club into a winning team. He has been the inspiration and the driving force that built this club from less than 200 people to well over 400 active members. The lessons he has taught has given real meaning to the word 'teamwork' and has inspired the warmest spirit of Aloha in the Hawaii Kai community as well as in the rest of the state.

"It gives me great pleasure this morning to present to this honorable body Sammy "Steamboat" Mokuahi Jr. and his assistant coach, Teddi Anderson."

Senator Hagino introduced former Speaker of the House Daniel Kihano who was also seated in the audience to witness the recognition of his grandson, Bryson Villanueva, by the Senate.

Senator Ann Kobayashi introduced Representative Calvin Say and wife Cora Say who accompanied their son Geoffrey, also a member of the baseball team.

At 10:17 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:30 o'clock p.m.

## ORDER OF THE DAY

## THIRD READING

S.B. No. S1-93:

Senator Ikeda moved that S.B. No. S1-93, having been read throughout, pass Third Reading, seconded by Senator Iwase.

Senator Solomon rose to speak in support of the bill, as follows:

"Mr. President, I would like to state for the record that I have discussed this bill with the chairwoman of the Consumer Protection Committee with regard to the possibility of looking at the insurance point system in the interim.

"Although I agree with the fines, I feel that at the same time, the insurance point system should be revised! If the violators are still penalized by the insurance company in terms of the points against them, which would result in increased insurance rates, there would be no net savings for the insurees. I'm hoping that next year when we convene in the regular session this problem will be clarified. In a district such as mine, Mr. President, which has a high poverty rate, the people, unfortunately, do not have alternative modes of transportation to get to and from work. The bottom line is, many of my people are going to opt to drive without no-fault insurance if we cannot make that insurance affordable for them.

"Thank you very much."

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

"Mr. President, for the record, the concern of the Senator from the Big Island is well taken. This is one of the reasons why there is a provision in this bill that not only reduces the fine for driving without a no-fault card but also gives judges the discretion to suspend that fine, in the case of a first offense.

"We have had people call us with many examples of being caught in the bind of having their policies lapse because companies either went out of business or refused to renew them. Many of these people have been senior citizens. In the course of looking for another company to cover them, they may have been stopped for a violation and cited for not having a no-fault card. And they found themselves in a real predicament because they would automatically be fined \$1,000 under the current system. The judge has no discretion to suspend that fine. So, in addition to being fined \$1,000, once they found a company that would insure them, they were also surcharged in addition to paying the premium and then insurance coverage became prohibitively expensive.

"We have tried to address that situation not only in this bill but in legislation that we passed last year. The legislation that we passed last year, which is now law, does not allow insurance companies to surcharge anyone unless they have been convicted of driving without no-fault insurance in the past three years. And, also, by giving judges the discretion to suspend fines for first offenses I think that the judges will then be in a position

to take into consideration all of these mitigating circumstances before rendering any kind of a fine and I believe that this is fair.

"I wish we had thought about the point system. We will look into it next year. I'm not sure that we can reduce points because my understanding is that companies utilize points differently from the way points are utilized by the traffic bureau. But we will look into this problem.

"Thank you."

Senator Blair also rose to speak in favor of the bill as follows:

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

"Two penalties are applied. There is a public sanction, the mandatory sentence under the current law, that is applied by the judiciary. Then, there are private sanctions which operate in the construct of the insurance contract. I think it's very important that we bring out that difference. The Senator from the Big Island does a great service by pointing out that the combined sanctions are severe and that in reducing the public sanctions, we lower the total burden.

"I was one of those responsible for the current level of public sanctions and I still believe they are important. I'm not entirely comfortable with reducing them. If, in the future, we do reduce the private sanctions that are applied by the private insurance companies; we should be making a very substantial reduction in the private sanctions but reimposing the current public sanctions so that, rather than reducing both, we keep the public sanctions fairly high. Although I like the practice of giving discretion to our judges, we must also recognize that there was a history that caused us to take that discretion away. I hope that, with this bill, the public sanctions are not too light. If we do, in the future, reduce the private sanctions; we should also reestablish the public sanctions as they existed prior to the passage of this bill.

"Thank you."

Senator McCartney added his support of the bill and stated:

"Mr. President, we all know that the present no-fault system is less than desirable. I call it not the no-fault system but the 'your-fault system' and it really needs to be overhauled and reformed.

"This particular measure, I'd like to commend the chairman. It's our hope that this bill will broaden the marketplace and increase competition and ultimately help consumers. If that doesn't happen, Mr. President, we all must take a look at the fundamental structure of the no-fault law and probably restructure the whole thing. Insurance companies have to be put on notice that if this bill does not put pressure on stabilizing the system, then I think that other means have to be taken and other mechanisms considered on how to insure that our population is covered.

"So I think, Mr. President, this is probably one of the last chances that we have to keep the existing system in place. If not, tinkering will no longer be adequate and we're going to have to transform the system.

"Thank you."

Senator Matsuura, also in support, stated:

"Mr. President, the public must understand that if we are going to reduce the insurance cost, the best way to reduce that cost is to have less accidents. We can pass bills like this but, if the number of accidents continue to rise, rates are going to go up."

Senator Ikeda then added:

"Mr. President, there are things in this bill that I know raises some concerns such as repealing the 'take all comers provision.' There is good reason to do this, however, because the take all comers provision really is not working. What it has done is acted to keep other companies from coming into this state to do business. We are taking this step in order to make insurance more available to the consumer. I am hopeful that it will ultimately address the availability crisis that we currently face not only in the area of no-fault insurance but also in homeowners and other insurance coverages as well. If, however, it does not work, we will then have to take a really hard look at revamping the entire system.

"We currently work under a free enterprise system and we're doing everything we can to make that system work. But if it comes to the point where whatever we do does not remedy the current situation and availability still is a problem and prices do not stabilize, then I think we will be hard pressed to look into the possibility of creating a state funded system which, I might stress, is not without it's own set of problems. However, if we are pushed to that point, I don't feel that we will have a choice and this chair, at least, will entertain that option.

"Thank you."

The motion was then put by the Chair and carried, S.B. No. S1-93, entitled: "A BILL FOR AN ACT RELATING TO NO-FAULT INSURANCE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

At this time, Senator Blair rose to speak on a point of personal privilege and stated:

"Mr. President, the point of my personal privilege is to defend the honor of one of my colleagues from the island of Maui.

"A number of Senators have made disparaging remarks about Representative Souki and have questioned his motivation and some of the actions he has taken. Based upon a particular perspective, I can understand their feeling this way and understand the strength of the feelings that would lead them to such harsh statements. But I think it's a case where, if you fail to put yourself in the other person's shoes, you fail to see their perspective and may be judging too harshly.

"My understanding is that their was an agreement between the House and the Senate that, if matters were not concluded and agreement reached by midnight Friday, bills would not be introduced. As to the convention center, it was not resolved by Friday and introducing a bill on that subject was inconsistent with and in violation of the agreement. I believe that's the thesis of those who spoke against the introduction of the bill on Monday. But, that analysis leaves out one very important element. That element is so important that it can lead to an opposite conclusion. That element is the fact that negotiations continued after the Friday deadline.

"I believe that a reasonable person could perceive the post-deadline negotiations as being a waiver in all respects. That is to say, when we ourselves continue to

participate in the negotiation process after the deadline, then by our actions we impliedly waived the agreement, not just part of the agreement but the total agreement. Therefore, I believe that what Speaker Souki was trying to do was simply reflect the fact that negotiations were ongoing and that if we were going to conclude this session in one week, a bill had to be introduced. And both sides, having waived the previous agreement, he felt free at that time to introduce the bill for the benefit of all the people of the State of Hawaii.

"I state this because I don't want, by my silence, to appear to support statements by other Senators which were disparaging as to the motives of Representative Souki. I believe that he was motivated by the interests of the people of the State of Hawaii. I assume that he felt that the agreement had been waived to the extent that he could in good conscience introduce a bill on the House side. I do not feel he has breached any commitment to me and that I do not share any bad feelings towards him. I hope that the other members of the Senate will reflect upon the long-term relationships that are so important to the process and will not jump to negative conclusions when there is a reasonable way to understand the attitudes or the motivations of our colleagues in the House.

"Thank you."

Senator Bertrand Kobayashi, also on a point of personal privilege, responded:

"Mr. President, I believe the previous speaker is trying to develop an abstract nexus which is conceivable, perhaps conceivable in his mind but not in others. This abstract nexus connects two points: one, an agreement that no bills will be introduced without prior agreement by the House and Senate; two, a point about when there would be a deadline for introduction of bills. The two, I believe, are separate. To create an abstract nexus between the two, which is conceivable but which may not have existed in anyone's mind at the time it was made, is to create an illusion. I believe those who participated in the discussions that developed the agreement that no bills would be introduced without House-Senate agreement, knew what they agreed to, and then to confuse that principle with the other principle of deadline on introduction of bills, I think is to confuse the issue. The abstract nexus between point one and point two misrepresented reality. In that regard, I think the two have to be separated.

"Thank you."

At 12:46 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

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

Senator Blair then rose to respond and stated:

"Mr. President, apparently the nexus is hard for some people to grasp. I will again attempt to articulate what that nexus is. To me it is sophistry to suggest that there is no connection between the agreement on the Monday introduction of bills and the agreement on the Friday deadline for negotiation of the substance of those bills. It seems to me that we have an obvious and clear nexus between negotiating an agreement between the House and Senate and then the introduction of the product of those negotiations. It is a nexus which I find no difficulty in stating as having logical construct. The bill introduction deadline was a deadline, it seemed to me, that said, if you reach agreement by Friday then you write up that agreement in the form of a bill and introduce it on Monday. That's the very simple nexus.

"To say that you are going to continue to impose deadlines, but still negotiate after Friday on the subjects of the bills, turns those negotiations into a fruitless and pointless venture. I do not believe the House and the Senate would engage in a fruitless and pointless venture, but must admit there's evidence to the contrary.

"Thank you."

Senator Iwase rose in response to the previous speaker and stated:

"Mr. President, I can appreciate the comments of the Senator from Maui, but I think what the discussion is pointing out is, perhaps, why we have the situation we're caught in. This should not be negotiations for tactical purposes or for strategic reasons. We should not be engaging in negotiations to find out how we can circumvent agreements because something was not said or that something should have been said, and if it wasn't said therefore I can do anything I want.

"This negotiation process - I heard the Senator from Maui talk about waiver - you know, that's a rule of law. What we have in the negotiation process really should be the law of human relationship. It's a matter of someone giving his word and having a reasonable expectation of how it is to be interpreted by the other side. When you say to someone, I'm not going to introduce a bill until we have an agreement, it means just that. We don't have to go to Black's Law Dictionary or Corbin on Contracts to figure out what it means. It means I'm not going to do anything until we agree. And that is what was breached. Not some rule of law but, I think, some expectation of trust in human relationships in negotiations.

"I am disturbed by the fact that we have not moved on procurement and on the convention center just as everyone here is. I would hope that we can resolve those issues before we go home. But I am more disturbed by what I perceive to be a tactical, strategic move on the part of the House or the Speaker of the House to embarrass the Senate under the guise of introducing the bill to keep something alive and then to subsequently justify it by saying something was not said or something more should have been said. The rule of human relationship is, and that's what disturbs me the most, is if you tell me you're not going to introduce a bill until there is an agreement, don't introduce the damn bill.

"Thank you, Mr. President."

The Chair then stated:

"Perhaps, at this point, the Chair can clear up some of the discussion here by saying that we are going home on Friday. We are only going to consider bills that are before us that have been agreed upon by both Houses. That is the only business we are going to consider."

Senator Ann Kobayashi, chairman of the Committee on Ways and Means, in anticipation of the receipt from the House of Representatives of H.B. Nos. S1-93, S2-93 and S3-93, requested a waiver of the required hours of notice of a public hearing on said measures, and the Chair granted the waiver.

Senator Ann Kobayashi then rose on a point of personal privilege and stated:

"Mr. President, I would like to respond to this article that was just given to me. It's in today's paper and the headline reads, 'Get moving - Waihee orders legislators.'

"I would just like to say that I feel that we have been moving. We had a bill introduction deadline which was



Monday, August 23. We worked every hour until that deadline and got very close to agreement. As I said yesterday, the only difference between the Senate version of the bill and the House version, because both are asking for a centralized system, is that the House would like the comptroller to also be the chief procurement officer and the Senate wants an independent chief procurement officer chosen by a counsel of five people, three of which are members of the public. And so that is the only difference between the two bills.

"The article states that the governor asks us to show leadership. I feel we have been showing leadership; we've been negotiating in good faith; we've been trying to achieve reform in the system; we've been trying to achieve whatever's good for the taxpayer. I consider Governor Waihee a great leader and would like to ask him: 'Do you favor the comptroller also being the chief procurement officer or would you like to see an independent chief procurement officer?'"

"Thank you."

Senator Chang then rose on a point of information, as follows:

"Mr. President, the chairman of the Ways and Means Committee has stated a question on the floor of the Senate and, according to the Senate rules, it is our privilege to do this and expect a response on the floor. I'm wondering which it is that she is expecting, a direct answer on the floor or a communication from the governor in some other form?"

Senator Ann Kobayashi then responded:

"Mr. President, I would like an answer in any form and whatever way it's received will be made public. Thank you."

Senator Blair rose on a point of inquiry and stated:

"Mr. President, I rise on a point of inquiry, not parliamentary in nature, regarding your statement made earlier which was a little cryptic. I just want to be sure I understand it correctly. Were you indicating that the Senate will not take up the convention center during this special session? Is that what you stated?"

The Chair, having responded in the affirmative, added:

"To follow up on that, we are expecting two bills from the House sometime today and I will direct our clerk not to receive those two bills."

At 12:58 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:59 o'clock p.m.

Senator Holt, on a point of inquiry and personal privilege, stated:

"Mr. President, I just have an inquiry in response to the previous response to the question regarding the convention center. Can you explain to me what that means as far as negotiations on behalf of the Senate?"

The Chair responded:

"This means that negotiations can continue to go on, not only on a convention center, but for any matter that any Senator wishes to discuss at any time. And this applies to any time now or throughout the year. This is what we are here to do. We are in contact with our community throughout the year and this does not stop us

from talking about issues and solutions to these issues. As far as the issue of the convention center bill, we will look at it when it comes before us and make a decision in caucus and as a body. At this moment, we are proceeding to conclude the business that we have at hand and that is the only issue that is before us."

Senator Holt further inquired:

"Mr. President, I would like a clarification from you as to the time of adjournment on Friday?"

The Chair responded:

"As soon as we take care of all the business at hand."

Senator Holt then continued:

"Mr. President, with respect to the, call them discussions then instead of negotiations, I'm not clear. In response, but more in clarification of this morning's article in the Advertiser, some statements were made by me regarding the latest House proposal as not being very serious. I just want to make it clear that I still maintain that there are still some items in their latest proposal that should be left up to the Convention Center Authority, more implementation type items. I do commend the House in the sense that I'm very pleased to see that, finally, after five days, they have seen fit to agree to the Senate's position that a world-class convention center that meets the criteria set by the industry, set by the House and the Senate, can fit on less than 9.7 acres. We will proceed with our negotiations.

"We are also pleased to see that the House has taken a position to allow 800 rooms to be put on the convention center site. There are other items that we would like to address in the next day or two or three. Overall, I'm pleased with the progress, but at the same time there are still a lot of conditions that are tied to the House proposal which we hope can be resolved in the next few days.

"Thank you."

Senator Solomon then rose on a point of information and stated:

"Mr. President, I wish to clarify in my mind what exactly has transpired from the remarks of previous speakers and, also, your responses. Am I to understand now that we are in a situation where your recommendation is that we continue negotiations on all subject matters before the Senate, and am I to assume that procurement would include reforms, the technicalities in the money bills, and also the convention center? Mr. President, the question is, does that also involve the introduction of bills? I was under the assumption that on the procurement bill, we are operating on a 12-midnight deadline and this is why the Senate had compromised on a resolution. Is there a possibility that if we can get the House to agree with the Senate that we could resurrect the bill and possibly introduce it, contrary to the deadline rule?"

The Chair then responded:

"The deadline has passed and therefore we have agreed that any bill that does not meet the deadline is no longer on the table. That does not preclude the fact that we can bring up subjects such as procurement or the convention center, if there is agreement. We'll have to look at it at the proper time, when it is brought up. It could be today, it could be tomorrow, it could be next week, or during the next session."

Senator Solomon continued:

"So I'm with the understanding that you're encouraging those members here in the Senate who are participating in these negotiations to continue negotiating with the House in good faith although the deadline is over? And if they do come up in agreement, then you are possibly looking at either calling us back again to special session or, Mr. President, what exactly is your intention with the strategy that you are proposing to the Senate at this point in time?"

The Chair responded:

"I intend to conclude this session as we had agreed upon. I also intend to see that some of the pressing issues before the body be resolved."

Senator Solomon, in tribute to Mr. Tommy Holmes, then said:

"Mr. President, all of Hawaii was saddened and lost a great friend when Tommy Holmes died a few days ago.

"My 'ohana and his 'ohana were close friends for a long time. It was my privilege to work closely with Tommy when he was the director of the Hawaii Marine Center.

"It was then that I became intimately aware of what a great humanitarian he was. His unselfish devotion to the betterment of others was his life agenda and goal. He was truly a 'keiki 'o ka 'aina.'

"I express profound gratitude for what Tommy had done for Hawaii. I bid him a fond Aloha.

"Mr. President, on adjournment of this session, I would like to request a moment of silence in memory of Tommy Holmes. Thank you."

Senator Iwase then rose and stated:

"Mr. President, I would like to join the previous speaker on her comments about Tommy Holmes. I got to know Tommy when I was doing the Aloha Tower project and never knew him before that. Everything the Senator from Kohala has said about Tommy Holmes is exactly true. Thank you."

Senator Matsuura then added:

"Mr. President, I also want to join with the Senator from the Big Island. I don't think people realize that Tommy was one of the strongest advocates of the Matsunaga International Peace Institute and that his heart was full of aloha. I want to recognize him for that. Thank you."

Senator Holt further added:

"Mr. President, I would like to inform this body that Tommy Holmes was also the driving force behind the Hawaii Maritime Center. I would like to express my condolence also. Thank you."

Senator Chang also added:

"Mr. President, I share the sentiments of my colleagues about Mr. Holmes. I can only hope that when it is my time to leave this world that I should have so rich a legacy as he has left us. Thank you."

The following communications from the House (Hse. Com. Nos. S1-93 to S4-93) were read by the Clerk and were disposed of as follows:

Hse. Com. No. S1-93, transmitting H.B. No. S1-93, which passed Third Reading in the House of Representatives on August 25, 1993, was placed on file.

On motion by Senator Ikeda, seconded by Senator George and carried, H.B. No. S1-93, entitled: "A BILL FOR AN ACT RELATING TO STATE BONDS," passed First Reading by title and was referred to the Committee on Ways and Means.

Hse. Com. No. S2-93, transmitting H.B. No. S2-93, which passed Third Reading in the House of Representatives on August 25, 1993, was placed on file.

On motion by Senator Ikeda, seconded by Senator George and carried, H.B. No. S2-93, entitled: "A BILL FOR AN ACT RELATING TO THE SPECIAL FUND APPROPRIATION FOR HIGHWAYS ADMINISTRATION," passed First Reading by title and was referred to the Committee on Ways and Means.

Hse. Com. No. S3-93, transmitting H.B. No. S3-93, which passed Third Reading in the House of Representatives on August 25, 1993, was placed on file.

On motion by Senator Ikeda, seconded by Senator George and carried, H.B. No. S3-93, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS," passed First Reading by title and was referred jointly to the Committee on Ways and Means and the Committee on Education, Labor and Employment.

Hse. Com. No. S4-93, transmitting H.B. No. S6-93, which passed Third Reading in the House of Representatives on August 25, 1993, was placed on file.

On motion by Senator Ikeda, seconded by Senator George and carried, H.B. No. S6-93, entitled: "A BILL FOR AN ACT RELATING TO NO-FAULT INSURANCE," passed First Reading by title and was referred to the Committee on Consumer Protection.

#### ADJOURNMENT

At 1:29 o'clock p.m., on motion by Senator Ikeda, seconded by Senator George and carried, the Senate adjourned until 10:00 o'clock a.m., Thursday, August 26, 1993, on a rising vote and observing a moment of silence in memory of the late Tommy Holmes.

#### HOUSE COMMUNICATIONS

## FOURTH DAY

Thursday, August 26, 1993

The Senate of the Seventeenth Legislature of the State of Hawaii, Special Session of 1993, convened at 10:15 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by the Reverend Carolyn Stapleton, Hawaii Council of Churches, after which the Roll was called showing all Senators present.

The President announced that he had read and approved the Journal of the Third Day.

At this time, Senator Kanno introduced to the members of the Senate Professor Tim Naftali, as follows:

"Mr. President, Tim Naftali is a dear friend of mine. We were roommates in college at Yale and haven't seen each other for 10 years. Tim is a new professor at the University of Hawaii at Manoa. He is a professor in American Diplomatic History. He accepted his teaching position at the university without ever having been to Hawaii. Tim is working on two very interesting books, one of which is working with the Russian Government in writing the Russian perspective on the Cuban Missile Crisis; the other, on intelligence documents from World War II."

Senator George rose on a point of personal privilege and stated:

"Mr. President, I hope everybody dutifully read the Honolulu Advertiser this morning and noted the piece on the editorial page that says: 'Still a long way to go, baby.'"

"This particular column made reference to this, the 73rd anniversary of the 19th Amendment to the United States Constitution. I take the privilege of calling your attention to it because I had a grandmother who was one of the suffragettes who marched on that particular occasion, and it seems pretty grim to me that as recently as 73 years ago women could not vote. I'm not sure that those who granted us the privilege of voting are entirely happy with the results. I would hope they are increasingly so. I call this to your attention in the hopes that the matters of concern to women, which have seen very little improvement in these 73 years, will, in time, receive the attention that they merit. I refer particularly to the matters of spouse abuse. I think maybe I'll stop on that one, I think that's the worst one and the one that we really have to fix.

"Thank you, Mr. President."

Senator Solomon also rose on a point of personal privilege and stated:

"Mr. President, I support the previous speaker's remarks and would like to thank the Minority Leader for reminding us as to what we're all about here in the Senate, the Legislature.

"Mr. President, there is also an article that appeared on the front page of the Advertiser, 'Senators claim they'll go home as scheduled.' The article continues and says, 'Aki said, however, if agreements with the House are struck before the session's end, senators would entertain the idea of extending the session or calling for another special session at a later date.'"

"If you recall, Mr. President, yesterday, I rose on a point of inquiry and asked you at that time to please

clarify what our position would be, being that you are the President of the Senate. You succinctly said, Mr. President, that we would go home on Friday.

"Mr. President, I was informed by persons, and I don't want to divulge names because I don't think it's necessary, from the House that they were notified, I don't know whether it was a memo or whether it was a call from you, notifying them that the Senate has totally rejected the House (convention center) bill. And it was brought to my attention, Mr. President, that this is unprecedented on our part ... something that has never been done in the Legislature in the past 31 years. Mr. President, it takes both houses of the Legislature to solve any kind of problem, unless, in this great state of ours, the electorate decides that we are no longer a bicameral institution. And I am appalled that the Senate has taken that position, rejecting a House bill dealing with the convention center.

"You stated quite clearly on the floor, yesterday, that we are going to go home on Friday and, today, I read in the paper that 'Senators claim they'll go home as scheduled.' 'Claim,' is the word that I think we need some clarification on, from you, as our President. What is meant by that?

"Also, Mr. President, the editorial 'Convention center' on page A-12 says, 'The Senate's proposal to split Aloha Motors' 9.7-acre site into 7 or 8 acres for the convention center, with the remainder for a hotel or two, could end up being the mother of all sole-source contracts. It appears to earmark Sukanto for the entire job instead of putting it out to bid by the Convention Center Authority.' This disturbs me, Mr. President, because we have argued about sole-source contracts all last session and this session. Mr. President, since you're the closest, since you're the strongest supporter of the Sukanto site I would like you to clarify this point.

"Mr. President, under your leadership, you have led this Senate, with the help of the Majority Leader and chairs of committees within this honorable body into a sole-source situation, contrary to the procurement bill which, Mr. President, you advocated as leader of this body.

"You, Mr. President, led us down this path. It is incumbent upon you to share with this body in an open meeting, such as the floor today, to explain to us what is meant by these articles that have appeared in this morning's paper.

"Thank you very much."

At 10:30 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 10:52 o'clock a.m.

The Chair, in response to the remarks of the previous speaker, stated:

"In response to the points made by the Senator from Kohala, the Chair would like to make a few comments.

"The Chair would like to point out that her comments were based on the editorial and opinions of a newspaper and, therefore, are not the opinions of the Chair. Furthermore, the Chair has in the past stated his preference for the site of a convention center. However, I wish to point out that the Chair has never been involved in the negotiations of the convention center matter.

Therefore, the Chair would refer all questions or points on any matter, whether it be the convention center or any other matter before this body, to the proper committee chair.

"Also, for the benefit of all Senators, the Chair would like to restate, very clearly, we are going home on Friday as I stated yesterday. I have remarks to back that statement which will be submitted into the journal."

Senator Reed then rose on a point of personal privilege and stated:

"Mr. President, as you know, I was less than enthusiastic about the prospect of a special session to deal exclusively with the convention site selection. I did not believe that that single issue justified the taxpayers' expense for a special session. I felt that it should have been dealt with and concluded in the regular session or, failing that, there did not exist the urgency required for a special session and that it could be dealt with in more routine fashion in the regular session that convenes next January. However, due to your powers of persuasion, I am here. I think it is extremely incumbent on all of us that we, once we are here, do something about a convention center and that we actually resolve the issue.

"Yesterday, I spent several hours on a DC-10 and spoke with several people, including the flight attendants and others who live in Hawaii. There's a unanimous sense that 'Geez, you politicians! Why don't you do something? What's the problem? Why don't you get it resolved?' One of the flight attendants told me that she remembers that the biggest, hottest political issue the day her son was born was the convention center. She said her son just turned 25 last week and this has been going on for a long time. She also said, with all due respect, that the politicians don't look very good. The entire Legislature and the administration doesn't look very good.

"One of the people in the airplane said, 'Why don't you guys just all get together and decide what's the best site for the people of Hawaii in the long run and make a decision based on what's best for the people of Hawaii.' But rather than making a common sense decision, what often happens is that it becomes clouded because special interests get involved. Also, people start worrying about their own little security and the power structure in the Senate or the Legislature, and chairmanships, and all kinds of nonsense that cloud the issue. I think it is crucial that we decide this issue; that we come up with a site selection recommendation for a convention center and it be done in this special session.

"Thank you, Mr. President."

Senator Matsuura, on a point of personal privilege in response to the previous speaker, stated:

"I'm glad that the Senator from Maui is back. Sometimes the absence of one Senator could have shifted the direction in which this body was moving. I can give a specific example. At one point during the session, we did have 13 votes for a specific site for a world-class convention center, but, because the Senator from Maui had said that he would not be here, the vote then turned to 12. We would have had a decision in this body had we known that the Senator from Maui was going to be present. I just want the Senator to be aware that his vote at that crucial moment would have ended this impasse. I'm glad that he's back now, but things have shifted since that 13th vote. So the so-called flight attendant's remarks about our not being able to do these things is true because in this body we need 13 votes to get anything

done. The Senator from Maui would have been the 13th vote on that one important issue.

"Thank you."

Senator Chang, also on a point of personal privilege, responded:

"Mr. President, I too would like to respond to my colleague's report of his conversations with members of the public and I hope that in his conversations with them he told them that we have a fine upstanding group of hard-working Legislators -- people who have sacrificed their professional practices, time with their families, time with their business operations, with their loved ones and friends, to spend nights, weekends, holidays in meetings, negotiations, and caucuses. As Senator Holt said, sometimes he's here late at night all by himself trying to do the people's business. I certainly hope that our colleague from Maui pointed all of these things out to the public and indicated to them his belief that all of us are doing the public's service.

"Thank you."

Senator Ann Kobayashi added:

"Mr. President, I'd like to say that we were called into special session by the governor to fix and to clarify three items in the budget bill. One of them concerns bond money for our schools, \$180 million. If we did not vote on this particular matter we would not be able to float bonds for the building of schools. It is very important that we come together, vote on these three bills, so that our schools can proceed with receiving their funding. We've accomplished what we've been called back into session for and that is the reason we were called back into session for -- those three bills.

"Thank you."

Senator Holt also rose on a point of personal privilege and stated:

"Mr. President, I was not here earlier to receive the response by some of the speakers regarding the convention center. I just want to make it clear that, despite the editorial this morning in the Advertiser, the main reason, and it's been stated before here on the floor and some press statements that we have made, the main reason that the Senate is holding its position and trying to work out its differences with the House is because I've been receiving a lot of calls and other Senators have been receiving a lot of calls about preserving the open space. The Ala Wai Golf Course is one of the last areas of open space in urban Honolulu, so we're working hard, working late to see if we can strike an agreement with the House so it would allow the opportunity for the state to go ahead and enter into negotiations with the owner of Aloha Motors to build a convention center that meets the criteria that we have set for a world-class convention center in order to preserve the open space, the valuable open space in Honolulu.

"If that cannot be done, if the convention center goes over to the Ala Wai Golf Course then we'll build a convention center there. But the Senate won't change its position and is holding firm that we will take every opportunity to move ahead and give the people of this state and the voters of this community an opportunity to preserve open space.

"That's all I have to say, Mr. President, thank you."

Senator Ikeda, also on a point of personal privilege, stated:

"Mr. President, there are a couple of things that I believe need to be clarified. Throughout these discussions, here as well as in the media, people have continually made the point that the Legislature has been deliberating on this convention site issue for a number of years. However, 25 years is stretching it a bit I must say, and that is totally erroneous. But the impression is that we have not made a decision after deliberating on this issue for a number of years.

"I would like to point out that tourism was one of the first committees that I was assigned to serve on when I first came to the Senate in 1987 and it considered the convention center issue. And I would like to point out that a decision was reached at that time and that we did pass legislation designating a site for a convention center. That site was the International Marketplace. We were criticized then for making that decision; we were also criticized then for having potentially two convention centers being built on Oahu. The Aloha Motors site was also then a private development which was supposed to have been developed with hotels and with a private convention center. The same proposal that we're looking at now. But we went ahead and passed legislation to allow the convention center to be built at the International Marketplace because it was supposed to be free, at no cost to the taxpayers of this state.

"Six years later we find ourselves with no convention center. The reason for that is not one of indecision. The reason that we have no convention center is simply due to the lack of money. Financing in both instances, for private development at the Aloha Motors site as well as the International Marketplace, fell through. Subsequently, we find ourselves here deliberating on this issue again.

"And, yes, it is a very difficult and complex issue because right now we're talking about spending \$350 million. We are talking about making a decision that is going to have an impact on our economy and on the state for at least the next 25 years or more. These decisions should not be taken lightly. And despite the fact that some people within this body as well as without would like to make fun of the way decisions are made, I think that it behooves them to think a little harder. We are dealing with \$350 million or more, and I hope it isn't more, as well as a potential tax increase which will have an impact not just on the tourist industry, not just on our economy, but on every man and child in this state. Since the TAT impacts on all of the counties, these decisions should be taken very, very seriously and given the utmost importance and careful deliberation.

"Despite my feelings about the way that the House has conducted their business, or non-business, during this special session, I still believe that we have done what we could up to this point. I do believe that everyone has worked very hard. Everyone who has been here has put in a lot of hours, a lot of time, a lot of thought, and a lot of care and we will continue to do that. We should not be rushed into making hasty decisions, foolish decisions, that could ultimately hurt this state in the long run.

"Thank you."

Senator Blair, also on a point of personal privilege, stated:

"Mr. President, I apologize for extending the session today but I was moved by some of the previous comments to add some words of my own. Particularly, Senator Matsuura chastising my colleague from Maui for absenting himself at a critical point in the process. There is some truth to what he said, but the most curious aspect

of this special session is that despite all of the action or appearance of action that has brought us to where we are today, there is nobody who could say where each of the members of the Senate stands on site selection. So, when Senator Matsuura says that Senator Reed's vote was critical at a certain time, the public really doesn't know where all of the Senators stand on this issue.

"So the thought occurred to me, and maybe this is too simplistic but maybe we need a little simplicity in the process, that we could have a roll call tomorrow on which site each Senator favors. If there are 13 in favor of the Ala Wai site, as Senator Matsuura suggested there were at one time, we may discover, to the chagrin of some and the delight of others, that there are still 13 Senators for the Ala Wai site. That would then match up with the House's preferred site. My concern at this point is that we may be selecting a site that a majority of the Senators don't really prefer and that we're pressured into accepting simply because of our desire to go home or the desire to come up with a plan that is less bad than the one that the City Counsel came up with. Neither of those justifications please me, but I see us heading in that direction.

"Can we not, perhaps I ask this rhetorically, have some sort of a roll call of the Senators on where they would prefer to see the convention center. I suggest that there are four alternatives: the Meyers site, the Ala Wai site, Aloha Motors site with hotel, and Aloha Motors site without hotel. After we've had that vote, if there is not a majority in favor of any site, we could drop out the lowest vote-getter and poll ourselves again, until we come out with the site that is most preferred by a majority of the Senators.

"If we continue as we are going, we will come out with a site that was chosen by a process which defies description and is selected on the basis of its merits but on the basis of a desire to go home with some shred of dignity intact, or simply to prevent an even worse scenario from developing as a result of the the actions of the City Council.

"I urge you to consider my words, and thank you."

Senator Ikeda again rose on a point of personal privilege and stated:

"Mr. President, I hate to belabor the point but I don't feel that we can let this thing go or leave it as it stands currently. The suggestion made by the Maui Senator is totally off-the-wall. As he has stated, we have had caucuses, and he has reminded us that he has attended every single one. But I would like to jog his memory in his response to his allegation that the Majority Leader did not have the authorization to actually poll the members or to take some kind of a count. It was at one of those caucuses where we expressly asked the Majority Leader to conduct such a straw poll and I believe that the statements of the Majority Leader were based on the results of that straw poll.

"You know, I wish people would take some of their own advice. I'm getting really sick and tired of people who ask us to conduct ourselves like statesmen and then turn around and do exactly the opposite.

"Thank you."

Senator McCartney then rose on a point of personal privilege and stated:

"Mr. President, as far as my position is concerned I have full faith and confidence in our chief negotiator on the convention center. The caucus and the body has been in full deliberation and discussion on the issue. I think

he knows where we all stand and how we feel. He is working very hard to get consensus and to resolve this issue once and for all.

"Also, Mr. President, what I see happening here is endemic in politics in America and politics locally -- we are engaged in the politics of blame. It's time to stop the politics of blame, time to stop the governor blaming the Legislature, the Legislature blaming the governor, House, Senate. The bottom line is, Mr. President, we all must assume leadership.

"On opening day, I remember a statement by the person who gave the invocation. He said that we must strive to serve, not to be served. And we must come together as one body, one team, in order to make a decision. And as our former Senate president always said, 'We must put the people's business first.' And that's what this is all about, putting the people's business first and get out of the politics of blame.

"Thank you."

Senator Blair rose again and stated:

"Apparently, there's not a great deal of support for my proposal. I'm sorry to hear that because, the Majority Leader showed that there was a majority in favor of the Ala Wai at one point. I believe that majority still exists and that there's never been a majority of the members of the Senate who support the Aloha Motors site. That's why it seems very curious that Aloha Motors is the Senate position. We have the tail wagging the dog here. The only way to get around that is for people to stand up and state their position and not hide behind the fact that they have confidence in somebody else to make decisions for them.

"The public needs to know, if 13 Senators favor the Ala Wai, why the Senate is backing Aloha Motors. It's just nutty, and the only way we can get this resolved, it seems to me, is to be up-front, to be honest, to be simple, to be sincere, and that's all I'm requesting.

"Thank you."

Senator Iwase also rose on a point of personal privilege and stated:

"Mr. President, I'd like to go back to the comments made by the Senator from Manoa earlier.

"You know, we were called into special session and I supported that call. But we seem to have forgotten why we were called into special session because there were, supposedly, technical flaws in three bills which were of such a magnitude that it would have prevented funding for programs for our children and for other construction projects important to our state, and it would have created a debt problem for the State of Hawaii. That was first and foremost and that is why we came into special session; that is why I agreed we come into special session.

"If we do nothing more than pass those bills, which will allow for the construction of schools which we need to service the children of this state, and which we need to do, I will consider this session a success. We're also going to pass the no-fault reform bill and I think that is important and I commend the chair of the Consumer Protection Committee in the Senate, and the Consumer Protection chair in the House, because I think that is a demonstration of what a serious commitment to the resolution of problems can result in. And it results in a bill.

"I am disappointed that the procurement bill has not passed. I know that the chair of the Ways and Means Committee has worked extremely hard on this. I support an independent procurement officer; that seems to be a hang-up. I have more calls about corruption in politics, corruption in procurement practices, than I have on the convention center. So, Mr. President, I am disappointed that we have not passed the procurement bill.

"In my order of priority, based on the calls I've received, we must pass the three bills with technical flaws because I have received calls about our schools. We must pass the no-fault bill, because I have received calls and letters about no-fault insurance reform. Sitting on the Senate investigation committee, I have received calls about corruption in politics. And it is unfortunate the House has remained so intransigent in not wanting an independent procurement officer that we are not able to pass that bill.

"As for the convention center, I have received five calls, and if we have to go home, we go home.

"Thank you, Mr. President."

Senator Reed, on a point of personal privilege, said:

"Mr. President, I don't want the Senator from Maui to think that there's no support for his idea. I support simplicity and I support the public's right to know. I believe that a poll tomorrow, a roll call type of standing, with each Senator expressing his or her position on the site selection, would indeed be a service to the public and I support it and urge you to seriously consider the suggestion."

Senator Tungpalan also rose on a point of personal privilege and stated:

"Mr. President, I think it would be remiss for us to leave with the perception that there weren't 13 votes to support the Aloha Motors site and, as such, our chief negotiator for the Senate. As I recall, in one of our caucuses, the Senator from Maui had concurred, along with the Senator from the Salt Lake district, that if we were able to garner 13 votes for Aloha Motors, that they would lend their support to the negotiator. And I do recall that we did make an effort to see if everybody had a position and they did indeed indicate that we would start with Aloha Motors and then proceed to Ala Wai if we couldn't effectively negotiate that deal. Now, I don't know if the Senator from Maui or the Senator from Salt Lake remembers that conversation but I do.

"Thank you."

Senator Blair then responded:

"Mr. President, this may become a very informative session before the day is over. It seems now that what's discussed in caucus can be republished on the floor for further discussion. I'm more than happy to adopt that procedure. I'll even extend it a little bit.

"What I recollect as having happened was that a group or a subgroup of the majority caucus, which may or may not have included Republicans, but at least 13 Senators or their representatives (I wasn't invited to attend so I'm not entirely clear as to who did attend) met in your office to adopt a plan under which Senators who had different opinions as to where the convention center ought to go, in the interest of group solidarity and out of a fear of reorganization, hatched a plan whereby Milton Holt would go forth and essentially push two convention center sites, Aloha Motors and the Ala Wai. Some people were led to believe that certain criteria would apply and others

believed that different criteria would apply. That difference having to do with whether it would be all or only part of the Aloha Motors site. Once this group of 13 reached its decision, the majority caucus which had been delayed until this was done, then proceeded. Those of us who are members of the majority party but not necessarily of the ruling majority caucus were then informed that you already have our 13 votes?

"I believe that Senator Gaulty stated it succinctly when he said, and I paraphrase because I don't remember his words exactly, 'if you got 13 votes then you can do what you want.' To the extent that I acquiesced in this plan by recognizing that 13 votes is a majority in a 25 member body, I admit that I did. That's majority rule, I never object to that.

"What I'm saying here is that when you have a group of 13 coming together for two convention center sites in a first phase-second phase approach, what you've basically done is add the people voting for two sites. It's easy to get a majority when you're voting for two convention center sites.

"But I think it's important that we select one convention center site, not Aloha Motors with Ala Wai as a backup. I know that among the 13 votes who supported having Senator Holt negotiate on behalf of the rest of us, there were some very strong supporters of the Ala Wai site. I would hate to see the legislative process resolve to a majority of a majority, which is in fact a minority of the whole membership of the Senate, controlling the decision in favor of a site that is not the preferred site of a majority of the Senate. Aloha Motors is not the first preference; we may support it as the lesser evil, vis-a-vis what the Council has done. And that, frankly, is why I'm putting forth this proposal. If we are given a plan that says Aloha Motors with one hotel versus the Council's proposal of Aloha Motors with four hotels, I'm forced to choose the lesser of two evils, which is Aloha Motors with one hotel. But I'm not given the opportunity to vote for what I think is the best solution for the people of the City and County of Honolulu and the State of Hawaii and that is the Ala Wai Golf Course site.

"I think there are 13 members of this body, as there were when the poll was taken by Senator Matsuura, who believe as I believe. That majority is being subsumed through a process that has people selecting two sites and then delegating their authority to Senator Holt. I find that that is likely to be a situation where the tail wags the dog. I'm uncomfortable with that and that is why I would like a roll call vote to see if I am correct and that in fact there are 13 people who prefer the Ala Wai over the Aloha Motors site.

"It troubles me greatly when I read in the papers that the Senate position is something that I believe is not in fact the position of the majority of the Senators.

"Thank you."

Senator Holt then responded:

"Mr. President, I appreciate the remarks by the previous speaker. However, I disagree, and maybe I'm wrong and maybe that's why maybe we should change his request, and I usually follow the majority of the members of the caucus. And as far as the tail wagging the dog, instead of taking a vote on Ala Wai Golf Course, why don't we just take a vote on the chief negotiator?

"Thank you."

Senator George again rose on a point of personal privilege and stated:

"Mr. President, I think it's necessary for me to respond to the remarks of the Senator from Maui. I'd like to allay his fears. The members of the loyal opposition have never been invited to or included in the majority caucuses, as I think the majority leadership will indicate. I would further like to say that if that same Senator feels that there are 13 votes in this body that favor the Ala Wai Golf Course Ewa end as the site, or the Ala Wai Golf Course as the site, it seems to me that a simple piece of paper that says on the top, the undersigned Senators support the Ala Wai Golf Course, if you were to circulate that and if there were 13 names on it then I think he's got a point. I don't think it's necessary to go through this convoluted proposal to have a vote on the floor."

Senator Blair responded:

"Mr. President, two points. One, the suggestion has been made to modify my proposal so that we vote on whether or not Senator Holt should continue as chief negotiator on behalf of the Senate. I would only point out that my constituents do not wish for me to select a Senate negotiator, they wish for me to select a site for a convention center. That, I believe, is the correct vote. Deflecting it by involving personalities really obfuscates rather than clarifies the decision that we should be making.

"I'm happy to hear that Senator George adopts the concept of the majority rule. The only problem that I have with circulating a piece of paper is that we have an awful lot of Senators who, when push comes to shove, get out of the way. Abstention would be the real problem with simply circulating a piece of paper. If there were some way for me to force everybody to comply in the choices on a piece of paper and coerced them into indicating which of the four, then I would be happy to do it by circulating a piece of paper.

"I suggest doing it on the floor, by a roll call vote, to prevent those people who wish to run and hide, from running and hiding. Whether they choose to hide by not signing a particular piece of paper or choose to hide behind Senator Holt and let him stand the jerk for their lack of fortitude on the issue, is irrelevant to me. The fact of the matter is, we need to know where the members of the Senate stand on this issue. The only poll which everyone apparently agrees was accurate, at least nobody has challenged it, showed that a majority of the Senators favored the Ala Wai site. It was defeated by the absence of Senator Reed. His reappearance now gives us the magic 13. If I am wrong, follow my advice, it would take a lot less time to conduct the poll than it has taken us to deliberate over whether or not we should have that poll.

"Thank you."

The Chair then responded:

"I stand behind the chief negotiator, Senator Holt. I think he has done a good job whereby we are able to possibly resolve this issue. I think we have to remember that he has come up with a fair plan, a plan that has set criteria, and it is our job now to base all sites on these criteria. I think this is what Senator Holt is doing. He's trying his best to apply the criteria that we have set upon all sites. I think his plan is workable and I hope he will continue to serve in that capacity until we can come to a resolve on this issue."

Senator Iwase again rose on a point of personal privilege and stated:

"Mr. President, my earlier comments were made because it's getting rather tiresome to just focus on the

convention center when we really have three other issues before us of equal, if not greater, importance to the state. However, since we've now engaged in a meandering discussion over the last hour, I would like to point out just a couple of things on the remarks of the previous speaker.

"First, I don't think anyone who attended the caucus, and the results of which was publicly announced thereafter, can deny that there are 13 votes, at least, for the position that was put forth by the chief negotiator. That is the Senate's position. It's unquestionable.

"Second, on the statement that there was majority for the Ala Wai site, and since reference has been made to the accuracy of newspaper reporting today, I would refer that speaker to the article in the Advertiser, which appeared I think about a week ago, when there was apparently 13 votes, and a Senator then changed her vote from the Ala Wai to 'kanalua,' which left the Senate with 12 for Ala Wai and therefore no majority.

"Let me make it clear again that there is a majority supporting the position of the chief negotiator, as he came forward with it after the majority caucus held last week.

"Thank you."

Senator Blair then responded:

"Mr. President, my last remarks on the topic, I promise, is to note that it is clearly easier to pick a negotiator than to pick a site.

"Thank you."

Senator Gaulty also rose on a point of personal privilege and stated:

"Mr. President, I rise also on a point of personal privilege with regard to the statement of the Senator from Mililani. It's my feeling, as has been expressed many times in the papers and by other Senators, that the decision on the convention center is probably one of the most important decisions that any Senate will have made and I think it behooves us to take all due care and get full consideration to the merits of the different sides of the issue.

"With regards to the comments made by the Senator from Pearl City, it is true, and I've always been a practical person, 13 votes dictate what we do in this body, and I think that was my understanding of what the caucus had decided at that particular point when the compromise plan - the Aloha Motors plan and the backup Ala Wai Golf Course plan - surfaced. However, no sooner than I had returned to my office, I received a call from a person who I admire greatly, the Majority Leader, who indicated that it was his understanding that the Aloha Motors proposal required all 9.6 acres to be considered as the site.

"And as you know, Mr. President, we have since strayed from that position, and I think that the Senator from Maui's recommendation that we have a roll call or some manner of polling the Senators is appropriate, because it's really unclear as to whether there are 13 votes in support of the proposal that 13 Senators seemed to have supported sometime ago. And so I would support the Senator from Maui's contention and ask also that we have a roll call vote on the convention site.

"Thank you, Mr. President."

Senator Iwase then responded:

"Mr. President, I would like to thank the Senator from Salt Lake for mentioning the importance of the convention center. I did not mean to minimize the importance of the issue to this state.

"The point I was trying to make is, the Senate and the House have engaged in a long series of discussions and debates and I don't think we've even come close to touching upon the real issues which need to be addressed if we are to pick, make a decision on a complex, land use, construction, and financing issue as a convention center. We are no closer to those questions then we were a year ago. And that is because we have never discussed those questions. That is because we have not obtained information to reach a decision on those questions and that is because the Legislature is really not the appropriate body to micro-manage.

"The Senate position incorporates a position which gives the decision-making or the negotiation and decision-making authority to the Convention Center Authority. They are an executive agency, we fund them, they hire people, they have consultants who are supposed to make these decisions, they're supposed to take the time to look at the finite details of the issue, and we are not even going to get close to that. And I would hope that at least at some point in time that that idea becomes more of a reality because we are not going to resolve issues of financing and construction and tax map keys and land use and height of buildings, and whether or not it's a doable project in this body or in the House.

"Thank you, Mr. President."

Senator Bertrand Kobayashi also rose on a point of personal privilege and stated:

"Mr. President, my recollection of the issue, if I may.

"From the point that we went from 13 votes to 12 votes for the golf course site. A number of individuals who had supported the golf course site indicated that they had a change of mind and, to my recollection, that then reduced the golf course vote from 12 votes to 10 votes and perhaps even less. It was at this point a discussion was held which finally led to the meeting in the majority caucus room to affirm that we should back off on a site, seek the assistance of a chief negotiator to put together a position that can be carried as the Senate position through House negotiations.

"Whereas we may have at one point gotten up to 13 votes, these were not solid votes. That vote count later deteriorated and at that point a second process occurred.

"Thank you."

Senator Matsuura, again on a point of personal privilege, stated:

"Mr. President, let me make a few comments on something that we all can agree to. In terms of the procurement bill, the Senate has an advantage in that we are aware of the flaws in the procurement procedures or areas in which one could circumvent the procurement law to direct an award to a friend. That's one of the reasons why the Senate took special effort to bring in the procurement experts.

"The chairman of Ways and Means has done a very good job. I commend her and the Senator from Nuuanu, who co-chaired the committee. They have looked into two procurement studies that were done previously. The state auditor, was mandated to do yet another study. They went to the CSG and asked them for help. The Council of State Governments has done procurement



studies because other states were having similar problems. These studies resulted in the development of the ABA model procurement code. When this group of five procurement specialists were hired by the state auditor, the strongest point that they made was that, if you're going to avoid all of the sole source abuses, you got to have centralized purchasing. That's the crux of the Senate procurement bill. This is the reason why the Senate will not give up on that one point and that's one of the reasons why this procurement bill is dead. The Senate could not give that up. Because, if you give that up, you might as well not have a bill. Those of us who have looked into the procurement abuses know exactly what happened. And come hell or high water, we will not at any point let the present system continue as it is.

"It's true, the investigation has stopped a lot of abuses. I say this in all confidence because the number of contracts going out for bid today is a lot more than had occurred previously.

"We can be very proud as Senators in that we have done the job of finding out the procurement abuses and are trying to correct it. I'm not saying that the House members are wrong. I wish that they had the opportunity to have joined us in the investigating committee. I'm sure they would be stronger in terms of their stand on centralized purchasing and the need for an independent chief procurement officer.

"The failure of the passage of the procurement bill was not a failure of the chairmen that handled that bill or the conferees. I'm very proud to say that none of us budged on that one point and I congratulate the chairmen of the Senate committee. It was not a failure in passing a bill; it was stopping a bad bill from passage.

"Thank you very much."

Senator Holt rose and stated:

"Mr. President, in support of the previous speaker's statement, I too agree that the reason that we are here in this special session is to correct the defects in the educational bills. We've been very fortunate to get a insurance reform piece of legislation passed. The two other issues before us, the procurement bill which I feel is just, if not more important than a convention center, remains unresolved. The convention center, as we know from previous discussion, remains unresolved. I think this body has an obligation to the taxpayer to explain why we're here.

"Foremost, as we moved on to take on the defects in those bills, we have attempted very vigorously to resolve the other two issues, procurement and convention center, and no one can take away from the progress that we've made. If anything, we've become more sensitive to the differences between the positions in this house and the next house. And I submit, that although difficult, and at times politically very accommodating it would be to take votes, be it straw votes or votes on the floor on motions in particular or pieces of positions, I feel that it's incumbent on this body to move ahead with the business of the people, that is, to finish what we are here for, to get out on time tomorrow. If it is the desire of the governor or both bodies, in concurrence, to keep negotiations continuing on the other two issues, I believe that needs to be resolved soon and, until then, all discussion and debate and deliberations on the other two issues be put aside. Let' go home tomorrow!

"Thank you."

At this time, Senator Ikeda, for the Committee on Consumer Protection, requested a waiver of the required

hours of notice of a public hearing on H.B. No. S6-93, and the Chair granted the waiver.

The statement of the Senate President, in response to earlier comments by the Senator from Kohala and others, is as follows:

"Members of the Senate, the Senate agreed to meet in special session with the understanding that we would take up certain budget matters recommended by the Governor of Hawaii. This was the sole agreement.

"Without fanfare, we also engaged in discussions on three matters: 1. Convention Center; 2. Procurement; 3. Insurance.

"We stipulated that we would take up these three matters only if there was agreement between House and Senate prior to the commencement of the special session. We are fortunate that agreement was reached on insurance reform. The other two matters are still being discussed and, as agreed, must be left to a later date for resolution.

"The Senate is preparing to adjourn Friday as planned and will await further discussions with the governor and the House of Representatives about future sessions."

#### STANDING COMMITTEE REPORTS

Senator Ann Kobayashi, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. S2-93) recommending that H.B. No. S1-93, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Ikeda, seconded by Senator Reed and carried, the report of the Committee was adopted and H.B. No. S1-93, entitled: "A BILL FOR AN ACT RELATING TO STATE BONDS," passed Second Reading and was placed on the calendar for Third Reading on Friday, August 27, 1993.

Senator Ann Kobayashi, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. S3-93) recommending that H.B. No. S2-93, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Ikeda, seconded by Senator Reed and carried, the report of the Committee was adopted and H.B. No. S2-93, entitled: "A BILL FOR AN ACT RELATING TO THE SPECIAL FUND APPROPRIATION FOR HIGHWAYS ADMINISTRATION," passed Second Reading and was placed on the calendar for Third Reading on Friday, August 27, 1993.

Senators A. Kobayashi and McCartney, for the Committee on Ways and Means and the Committee on Education, Labor and Employment, presented a joint report (Stand. Com. Rep. No. S4-93) recommending that H.B. No. S3-93, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Ikeda, seconded by Senator Reed and carried, the report of the Committee was adopted and H.B. No. S3-93, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS," passed Second Reading and was placed on the calendar for Third Reading on Friday, August 27, 1993.

Senator Ikeda, for the Committee on Consumer Protection, presented a report (Stand. Com. Rep. No. S5-93) recommending that H.B. No. S6-93, pass Second

Reading and be placed on the calendar for Third Reading.

On motion by Senator Ikeda, seconded by Senator Reed and carried, the report of the Committee was adopted and H.B. No. S6-93, entitled: "A BILL FOR AN ACT RELATING TO NO-FAULT INSURANCE," passed Second Reading and was placed on the calendar for Third Reading on Friday, August 27, 1993.

**ADJOURNMENT**

At 11:46 o'clock a.m., on motion by Senator Ikeda, seconded by Senator Reed and carried, the Senate adjourned until 10:00 o'clock a.m., Friday, August 27, 1993.

## FIFTH DAY

Friday, August 27, 1993

The Senate of the Seventeenth Legislature of the State of Hawaii, Special Session of 1993, convened at 10:17 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by the Reverend Joan Ishibashi, Interfaith Network Against Domestic Violence, after which the Roll was called showing all Senators present.

The President announced that he had read and approved the Journal of the Fourth Day.

Senator Kanno introduced to the members of the Senate Laura Effurd, legislative director for Congresswoman Patsy Mink, who was seated in the gallery.

At 10:20 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 3:17 o'clock p.m.

## ORDER OF THE DAY

## THIRD READING

H.B. No. S1-93:

On motion by Senator Ann Kobayashi, seconded by Senator Bertrand Kobayashi and carried, H.B. No. S1-93, entitled: "A BILL FOR AN ACT RELATING TO STATE BONDS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

H.B. No. S2-93:

On motion by Senator Ann Kobayashi, seconded by Senator Bertrand Kobayashi and carried, H.B. No. S2-93, entitled: "A BILL FOR AN ACT RELATING TO THE SPECIAL FUND APPROPRIATION FOR HIGHWAYS ADMINISTRATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, None. Excused, 1 (Solomon).

H.B. No. S3-93:

On motion by Senator Ann Kobayashi, seconded by Senator McCartney and carried, H.B. No. S3-93, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR COLLECTIVE BARGAINING COST ITEMS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

H.B. No. S6-93:

On motion by Senator Ikeda, seconded by Senator Iwase and carried, H.B. No. S6-93, entitled: "A BILL FOR AN ACT RELATING TO NO-FAULT INSURANCE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

At 3:20 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 4:27 o'clock p.m.

## SENATE RESOLUTION

The following resolution (S.R. No. S3-93) was read by the Clerk and was referred to committee:

## Senate Resolution

No. S3-93 "SENATE RESOLUTION REAFFIRMING THE SENATE POSITION ON THE CONVENTION CENTER ISSUE AND THE DESIGNATION OF SENATOR MILTON HOLT AS CHIEF SENATE NEGOTIATOR."

Offered by: Senators Holt, Aki, Ikeda, Iwase, McCartney, Levin, Kobayashi, B., Kobayashi, A., Tungpalan, Kanno, Nakasato, Matsunaga, Matsuura.

Referred to: Committee on Legislative Management.

## STANDING COMMITTEE REPORT

Senator Bertrand Kobayashi, for the Committee on Legislative Management, presented a report (Stand. Com. Rep. No. S6-93) recommending that S.R. No. S1-93, as amended in S.D. 1, be adopted.

Senator Bertrand Kobayashi then moved that the report of the Committee be adopted and S.R. No. S1-93, S.D. 1, be adopted, seconded by Senator Ikeda.

Senator George rose to speak against the resolution, as follows:

"Mr. President, speaking against the passage of the resolution: I participated in a good bit of the discussion that provided for useful amendments to the way in which the investigation committee has been doing its business. There are always procedural matters, which those of us who are not lawyers learn by experience can be done in ways that are more effective in achieving what we want.

"My 'I do not concur' on the committee report that accompanies this resolution is particularly directed toward the increase in the membership of the investigative committee, as prescribed in this resolution, from five members to seven. As one of the five members who has been involved in this from the initiation of the committee, it is extremely interesting to me that the one action of this Senate that has met with universal praise from all the people that I have talked to, I think from the public in general, I think all of us can agree on that, from the media, the print media, the electronic media, it has been perceived as a useful investigation and predicted to do very well.

"For that reason, I think that augmentation of the membership of the committee from five to seven, at the request of the administration, which in a way has been the subject of the investigation, is (I was going to say insulting but I think, maybe, it's a little strong) a degradation of the useful work that is being performed and a questioning of whether or not the committee can conclude its investigations in a way that is useful to the progress of good government in this state. I think watering down, whitewashing, words like that are going to be used when the public is aware that the membership has been augmented in this committee.

"I am particularly concerned that this might reflect on the extremely difficult and productive labors of the chairman of the committee who is certainly to be praised for this. I am going to vote 'no.' I leave it up to the discretion and the good judgment of my colleagues. Thank you."

Senator Bertrand Kobayashi rose to speak in support of the resolution and stated:

"Mr. President, speaking in support of the resolution.

"Mr. President, the resolution is largely not controversial, except perhaps in a couple of instances, and one of those instances is the membership of the committee. Allow me to explain my rationale.

"The administration request was nine members which was seen as being too much. So, in part, the move from five members to seven members is a compromise. We exist in a political situation where compromise, I'm sure, is part of our everyday language. But it is not really just compromise that was involved. In many of our endeavors, more heads are better than one. We have many talented, able, dedicated Senators who could, I think, contribute meaningfully to this kind of effort. The subject matter of the investigation is quite broad, in terms of range of topics and is quite deep in terms of detail and complexity and so the workload is heavy. This heavy workload could be made more specialized and focused by individual members with a larger membership.

"There is no intention of watering down the membership of the committee. Rather, I would see it as strengthening the committee. A strengthening of the committee in terms of adding more individuals with talent and dedication and abilities to contribute to the committee.

"I don't think this committee should be looked upon as having not been anything but doing a great job up to now. And I think that this increase in the number of members from five to seven, not nine members, should not be taken personally by any individual members. In fact, one of the comments made at the public hearing with regard to the increase in the number of members, I think, has to be overlooked and disregarded and the personal individual members, I think, are to be congratulated and supported for their fine hard work and I think we can live with the notion that there are others also in the Senate who can also contribute some fine work. Thank you."

Senator Chang also supported the resolution and said:

"Mr. President, I note that the resolution contains the mission of the investigatory committee, which is to make recommendations with respect to government procurement. I would suggest that, to the extent that there are recommendations that have been formulated as a result of the inquiry conducted thus far, these recommendations be forwarded to the chairman on Ways and Means and the chairman on Government Operations forthwith because the discussions relating to the bill on government procurement are rapidly drawing to a close and those recommendations would be needed in order to ensure that the bill addresses all of the concerns, raised by the investigatory committee. Thank you."

Senator Ann Kobayashi added her support of the resolution and stated:

"Mr. President, in support of the resolution, will the chair of the Legislative Management Committee yield to a question?"

The Chair posed the question and the chairman, having responded in the affirmative, Senator Ann Kobayashi asked:

"Mr. President, I just wondered, since this committee is investigating the administration, so to speak, and it is the administration that has asked for an increase in the membership, has the administration also sent a list of recommended names?"

Senator Bertrand Kobayashi answered:

"Mr. President, I believe that the administration has not sent any names and the committee has not sent any names as recommendations of members to sit on the committee."

Senator Reed, against the resolution, asked:

"Mr. President, I rise in opposition. I'm also wondering if the chair of the Legislative Management Committee would yield to a related question?"

The President posed the question and the chairman having responded in affirmative, Senator Reed inquired:

"Mr. President, I'm wondering if the chair finds it not odd and perhaps even inappropriate for the administration, which is the target or the primary focus of the investigation, to have any input or to be given any consideration in terms of the makeup of the investigatory committee?"

Senator Bertrand Kobayashi answered:

"Mr. President, I would say that the administration should be allowed some input. It was not the administration, primarily or solely, that was the source of these recommendations. There were many members of this body including members on both the Legislative Management Committee and the special investigating committee that wanted larger membership on the committee. So, the administration's position was, I think, just one of many voices."

Senator Tungpalan, in opposition to the resolution, inquired:

"Mr. President, I'm wondering if the Senator who voted with reservations, the Senator from Hilo, would submit to a question?"

The Chair posed the question to the Senator from Hilo and he responded in the affirmative. Senator Tungpalan then asked:

"Mr. President, will the Senator please share with us his reservations on the matter?"

Senator Matsuura answered:

"Mr. President, I'll be honest with you. I'm going to vote 'no' on this resolution. The reason is that I agree with Senator George. We've worked hard as members of this committee. Having more members on the committee is not going to be a plus.

"This resolution was introduced, primarily, to correct one thing, the number of committee members. However, this resolution is being expanded to other things. The testimony that was given at the hearing was, primarily, that which represented the administration.

"I felt that the committee was very fair. I don't recall any incident where we have deprived a witness from expressing any comment or viewpoint. Presently, a

witness can bring a counsel. The counsel is there to advise that witness. Right now, a witness is allowed to submit as much material as he wants to defend himself or to tell his side of the story. On top of that, the witness can make a five-minute oral statement.

"Anytime during the questioning period, a witness, in consultation with counsel, can submit a written question to be given to the chairman of the committee to be asked of the witness. At the end of the questioning, the witness can submit as much written material to clarify his statement, answers and to clarify his involvement. The investigation committee has, basically, two full-time staff. Just to duplicate the documents to be given to each of the committee members, require an enormous amount of work. I feel that the committee has been very fair in giving each committee member a very thorough briefing ... our briefing book contains the questions that are to be asked of a witness; possible answers that the witness will give; and why this question is being asked ... the supporting documents; everything in detail. If I were a witness I would want that briefing document because I will know exactly what questions are going to be asked. If that briefing document gets into the hands of a potential witness, that witness would have an advantage because the witness will be able to prepare a defense.

"The investigative work is hard because we are trying to reveal some of the abuses that have occurred. If adding more members to the committee will improve it then don't stop at seven, make it 12.

"The problem of increasing the members to seven is logistics. I think that confidentiality may become a problem. You have to understand that one of the biggest pressures that I have as chairman of the committee is to get this investigative committee work done as quickly as possible. However, the inclusion of the 10 days advance notice and having challenges in a court of law have delayed the committee hearing schedule. Because of the court challenge, because we were sued, we had to defend ourselves in a court of law. We have wasted a lot of time and taxpayers' money. But the main focus remains ... we are not here to prosecute people. All we want to know is what happened in the procurement process and ERS. We just want information. I don't know why all these lawyers are involved.

"I don't know if I answered your question."

Senator Tungpalan thanked the chairman and proceeded:

"Mr. President, in that case, I rise to speak against this measure.

"I remember several years ago somebody told me that if something is not broken, don't fix it. It appears that the committee is working well and doesn't need to be fixed."

At 4:45 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 4:55 o'clock p.m.

Senator Matsuura, speaking against the resolution, added:

"Mr. President, so that there will be no misunderstanding in this body, I do not want this body to vote down the resolution.

"My 'no' vote is primarily with the number of members on the committee. I asked the chairman of the Legislative Management Committee to keep the number to five. I did not object to everything else that the administration

has asked that was put in the resolution. I said that I have no problem inserting the other materials except to keep the number of the committee members to five. That was my request and the chairman knew that if he's going to increase it I'm going to vote 'no.' He knew that.

"Now, in response to the comment that I made why seven, go to 12. Perhaps it was from sheer frustration because I wanted it to stay at five.

"I am asking the body to go up on the resolution even though I'm going to go down because my reason is one of principle ... we should keep it five. We have two alternatives, we can make the floor amendment now making the membership from seven to five but I want to ask the chairman of the Legislative Management Committee if he would consent to such a floor amendment?"

The President requested a response from the chairman and Senator Bertrand Kobayashi answered:

"Mr. President, I would concede to such a floor amendment but I would not support it."

Senator McCartney then rose to support the resolution and said:

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

"First of all, I think this committee is very, very important. The purpose of this committee is number one and we all said it, 'To restore the public's faith and confidence in the way the government spends the people's money.'

"Our objectives are threefold: 1. To find out what is going on and if there are any problems, identify them. 2. What has caused these problems? 3. What do we do to fix those problems?

"Mr. President, in my mind the committee has been working well. What I don't want to happen is, when the final product comes out, for the administration and anyone else to get into a debate over process and procedure. What we should be talking about is the essence of what comes out of the report and what we are going to do to make this government work for the people of the state.

"So, Mr. President, as far as I am concerned, more members can make the committee better. I have faith and confidence in the members of the Senate and whoever you appoint to the committee can contribute and we can work together as a team, take our mission forward and do the best job that we can. We take this committee very seriously and we want to make it work.

"We still support the chairman of the investigation committee although, there may be a little disagreement about adding on members, but we will work with you and make this committee the best that it can be. Thank you."

Senator Iwase also rose to speak in support and remarked:

"Mr. President, I rise to speak in support of the resolution and I would like to have incorporated the statements made by the previous speaker."

Senator Reed added his opposition and said:

"Mr. President, I again speak in opposition and echo the comments of the Senator from the Big Island in his

observation and his personal experience that committees are not improved by adding members.

"Further, since we are going to be here next week dealing with the convention center issue, why not go down on this particular measure, follow the lead of the chairman of the committee, and then use the additional days to rework the resolution to keep the number at five.

"I find it insulting that the administration would prevail in what appears to be an effort to dilute a committee that is doing a good job in a probe that is looking at the operation of that very administration. So I urge a 'no' vote on this. This not a fatal 'no' vote, it is simply a means of putting it back for additional fine tuning and we have the time to do that."

Senator Ann Kobayashi, in support of the resolution, said:

"Mr. President, I will be supporting the resolution at the request of the chair of the special investigative committee.

"I would hope that in the future, when the chair of a committee strongly requests a certain number to be on the committee, that we will honor that request. Thank you."

Senator Chang, in support of the resolution, then said:

"Mr. President, I rise to speak in favor of the resolution. Let me quickly respond to the Senator from Maui's concern about dilution. May I suggest that with the addition of two members that I be appointed to the committee. My presence would 'thicken,' rather than dilute, the committee's presence. Thank you."

The Chair responded:

"Thank you, Senator Chang. The chair will consider that comment."

Senator Bertrand Kobayashi, in further support of the resolution, said:

"Mr. President, I did not make this decision lightly to recommend from five to seven. I would note that at one point, in our deliberations, there were at least a majority of members on the special committee itself that either supported or were willing to consider an increase of members from five to seven or five to nine. So, the request to increase the number of members on this committee came from many sources, including some members from the special committee itself. In addition, I would note that at one point during the public hearing held on this resolution on Wednesday, the chairman of the special committee indicated that with regard to the number of members on that committee that 'numbers are not a problem for me.' In that same committee hearing, the chairman did say contradictory things to that statement about the number of members. I think that there are others in this body who also supported the increase in the number of members on the committee, this from members of this body who are not members of the special committee. Thank you."

Senator Matsuura then rose to respond:

"Mr. President, in response to the previous speaker.

"When I made my input into the resolution, I made it very, very clear that I did not want the number of members of the committee to be increased! I have my reasons for that. If I was the person that was going to be investigated, with the kind of information that we have, I would want this committee killed. I really would want

this investigative committee killed or structure it in such a way to assist the defense counsel. The reason that I am taking such a strong stand on the number of committee members is because I expected this resolution to do just one thing. It was to specify the number of committee members, and I said to keep it at five. That's all we have to do. The rest of the investigative work is being done and we're trying our very best. My conflicting comments about the number was because of my sheer frustration that the resolution now includes other kinds of items recommended by the administration. I can tell you that the administration wanted nine members. Why?

"You have to understand the original resolution was written by the Senate research office, our Senate research. I have succumbed and have accepted everything else that the administration has asked for and, I'm telling you, we are very fair in our hearings. We have given witnesses the opportunity to ask questions to themselves in writing. The witness has that opportunity now but to this date the counsel has not taken advantage of that ruling. It's available to them but they have not taken advantage of it.

"I want you folks to understand that if we vote down this resolution then, of course, we don't have an investigative committee. It is better to have an investigation committee with seven members than have no investigation committee at all."

Senator George, speaking against the resolution, added:

"Mr. President, still speaking against the resolution, I would just like to make an observation and perhaps a plea to you, Mr. President, if it should pass, and I get a sense that it may very well squeak past this body, I would like to ask you, Mr. President, if you would listen very carefully, in making the two additional appointments, to the chairman of the committee who is the one who knows best in this room exactly what service on that committee will entail, how much time has to be spent, what sort of research has to be done. And I would hope that his recommendations would weigh very heavily with you at the time you make the appointment. Thank you."

Senator Ikeda then rose to ask if the chair of the investigation committee would yield to a question. The President posed the question to the chairman, and the chairman, having answered in the affirmative, Senator Ikeda asked:

"I would like to know if increasing the membership of the committee by two will compromise the work of the committee?"

Senator Matsuura answered:

"Could you clarify the meaning of 'compromise'?"

Senator Ikeda responded:

"Well, will it affect the work of the committee in any way? Will it make it less objective? Will it make it less believable?"

Senator Matsuura answered:

"It is difficult to give an answer because what is presently being done by the committee is that the staff does most of the work. However, there is a very crucial time, just prior to a hearing, that the staff brief the committee members. It is a very comprehensive briefing. I mean, it is in detail. If one of those documents is given to a witness that is going to come before the committee, I think, it will be compromised."

Senator Ikeda further asked:

"So what you are saying, in effect, is that by increasing the membership of the committee by adding anyone or any other or any two Senators within this body that there would be a leak?"

Senator Matsuura answered:

"I'm not saying that."

Senator Ikeda then said:

"That seems to be the inference and that is the reason why I am having a difficult time understanding this."

Senator Matsuura answered:

"We know the importance of confidentiality of these hearings. As you increase the number of committee members, the more likelihood that some of the confidentiality may be breached. I'm sure that no one will disagree with that."

Senator Ikeda then continued:

"I don't know whether I should stand up and rise on a point of personal privilege at this juncture, Mr. President, because at one point in time, prior to the formalizing of this committee by way of a resolution, I was on the committee with several other Senators when there was an open invitation to participate and then that invitation was subsequently rescinded and the membership on the committee was cut. My understanding is that the original resolution is now flawed because of that process."

Senator Matsuura answered:

"The reason why the number was cut down from nine to five at that time was because of logistics. Just to make nine copies of all the documents, we were keeping our two staff members at the copy machine duplicating all those documents. The workload was just horrendous. To cut down the workload, the committee was cut back to five members."

Senator Ikeda then rose to speak in support of the resolution, as follows:

"Mr. President, I rise to speak in favor of the resolution, but, with certain reservations.

"Mr. President, I believe that it is imperative that the ultimate findings of this committee be based on a fair and objective process. I commend the chair and the members of the committee for the work that they have done thus far and I find no fault with the way the proceedings have been conducted. I think they have all worked very diligently. However, I also believe that there should be no doubt that the ultimate findings or recommendations, whatever they may be, were based on a valid, objective and very fair process.

"Since the chair has indicated that the resolution will not compromise the work or the integrity of the committee and since it is incumbent upon us to assure that the process is a fair one, I will be voting in favor of this resolution but I do so with reservations because, frankly, the responses to my questions were not totally clear."

The motion was put by the Chair and carried, the report of the Committee was adopted and, Roll Call vote having been requested, S.R. No. S1-93, S.D. 1, entitled: **SENATE RESOLUTION AUTHORIZING THE SPECIAL COMMITTEE ON THE EMPLOYEES' RETIREMENT SYSTEM AND GOVERNMENT PROCUREMENT TO EXERCISE INVESTIGATIVE**

**POWERS IN ACCORDANCE WITH CHAPTER 21, HAWAII REVISED STATUTES,"** was adopted on the following showing of Ayes and Noes:

Ayes, 16. Noes, 4 (George, Matsuura, Reed, Tungpalan). Excused, 5 (Fernandes Salling, Fukunaga, Hagino, Koki, Mizuguchi)

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

"Mr. President, on a very brief point of personal privilege.

"Yesterday, I related comments of someone on the airplane that I happened to be on, including a flight attendant who said that the discussion over the convention center has been going on for 25 years. A member of this body expressed some doubt as to the accuracy of that estimate. I did five minutes of reading in the LRB library and found out that the flight attendant was very accurate.

"During the Burns administration in the late '60s, there was lengthy debate and discussion centered on Waikiki as the convention center site. In fact, that discussion contributed to the building boom in Waikiki in the late '60s and '70s. A quick review of the index of articles in the Advertiser and the Star-Bulletin in '66, '67, '68, and '69 shows one article after another with convention center discussion and site discussion. An editorial in the Star-Bulletin called Honolulu a 'convention city' but bemoaned the lack of space large enough to accommodate a major convention. In 1967 there was an article headlined, 'AMA convention seen as too big for Isles.' A spokesman for the AMA said that the AMA wants to come to Hawaii year-after-year for its convention but there simply is not a convention site to facilitate it. The spokesman said, 'We want them to come, they want to come, but I'm afraid we are stymied until we have a large convention center.' This is from the Advertiser, August 14, 1967.

"The debate has been going on for more than 25 years and I urge this body to take action and bring this to fruition. Thank you."

#### ADJOURNMENT

At 5:16 o'clock p.m., on motion by Senator Ikeda, seconded by Senator Reed and carried, the Senate adjourned until 11:00 o'clock a.m., Wednesday, September 1, 1993.

## SIXTH DAY

**Wednesday, September 1, 1993**

The Senate of the Seventeenth Legislature of the State of Hawaii, Special Session of 1993, convened at 11:01 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by the Reverend John Park, St. Luke's Episcopal Church, after which the Roll was called showing all Senators present with the exception of Senators Iwase and Koki who were excused.

The President announced that he had read and approved the Journal of the Fifth Day.

At 11:04 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 4:34 o'clock p.m.

### INTRODUCTION OF SENATE BILLS

On motion by Senator Ikeda, seconded by Senator Reed and carried, the following bills passed First Reading by title and were referred to committees:

Senate Bill:

No. S2-93 "A BILL FOR AN ACT RELATING TO A CONVENTION CENTER."

Introduced by: Senator Holt.

Referred: Special Committee on the Convention Center.

No. S3-93 "A BILL FOR AN ACT RELATING TO PROCUREMENT."

Introduced by: Senators Kobayashi, A., Chang.

Referred: Jointly to the Committee on Ways and Means and the Committee on Government Operations, Environmental Protection and Hawaiian Programs.

No. S4-93 "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS."

Introduced by: Senator McCartney.

Referred: Jointly to the Committee on Ways and Means and the Committee on Education, Labor and Employment.

No. S5-93 "A BILL FOR AN ACT RELATING TO STATE OFFICERS AND EMPLOYEES EXCLUDED FROM COLLECTIVE BARGAINING AND MAKING APPROPRIATIONS AND OTHER ADJUSTMENTS."

Introduced by: Senator McCartney.

Referred: Jointly to the Committee on Ways and Means and the Committee on Education, Labor and Employment.

At this time, the President appointed the following members of the Senate to the Special Committee on the Convention Center:

Senator Milton Holt, Chairman  
 Senator Ann Kobayashi  
 Senator Dennis Nakasato  
 Senator Mary George

Senator A. Kobayashi, for the Committee on Ways and Means and the Committee on Government Operations, Environmental Protection and Hawaiian Programs, then requested a waiver of the required hours of notice of a public hearing on S.B. No. S3-93, and the Chair granted the waiver.

Senator A. Kobayashi, for the Committee on Ways and Means and the Committee on Education, Labor and Employment, also requested a waiver of the required hours of notice of public hearings on S.B. No. S4-93 and S.B. No. S5-93, and the Chair granted the waiver.

Senator Nakasato, for the Special Committee on the Convention Center, also requested a waiver of the required hours of notice of a public hearing on S.B. No. S2-93, and the Chair granted the waiver.

The President then appointed the following members of the Senate to the Special Committee on the Employees' Retirement System and Government Procurement:

Senator Richard Matsuura, Chairman  
 Senator Mary George  
 Senator Rey Gaulty  
 Senator Gerald Hagino  
 Senator Randy Iwase  
 Senator Matt Matsunaga  
 Senator Mike McCartney

### ADJOURNMENT

At 4:37 o'clock p.m., on motion by Senator Ikeda, seconded by Senator Reed and carried, the Senate adjourned until 11:00 o'clock a.m., Thursday, September 2, 1993.



## SEVENTH DAY

**Thursday, September 2, 1993**

The Senate of the Seventeenth Legislature of the State of Hawaii, Special Session of 1993, convened at 11:09 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by Chaplain Bill Kunish, Interfaith Ministries of Hawaii, after which the Roll was called showing all Senators present with the exception of Senators Iwase, Reed and Solomon who were excused.

The President announced that he had read and approved the Journal of the Sixth Day.

At 11:13 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:16 o'clock a.m.

**STANDING COMMITTEE REPORTS**

Senator Holt, for the Special Committee on the Convention Center, presented a report (Stand. Com. Rep. No. S7-93) recommending that S.B. No. S2-93, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Ikeda, seconded by Senator George and carried, the report of the Committee was adopted and S.B. No. S2-93, entitled: "A BILL FOR AN ACT RELATING TO A CONVENTION CENTER," passed Second Reading and was placed on the calendar for Third Reading on Friday, September 3, 1993.

Senators A. Kobayashi and Chang, for the Committee on Ways and Means and the Committee on Government Operations, Environmental Protection and Hawaiian Programs, presented a joint report (Stand. Com. Rep. No. S8-93) recommending that S.B. No. S3-93, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Ikeda, seconded by Senator George and carried, the joint report of the Committees was adopted and S.B. No. S3-93, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT," passed Second Reading and was placed on the calendar for Third Reading on Friday, September 3, 1993.

**ADJOURNMENT**

At 11:30 o'clock a.m., on motion by Senator Ikeda, seconded by Senator George and carried, the Senate adjourned until 5:00 o'clock p.m., Friday, September 3, 1993.

## EIGHTH DAY

Friday, September 3, 1993

The Senate of the Seventeenth Legislature of the State of Hawaii, Special Session of 1993, convened at 5:10 o'clock p.m. with the President in the Chair.

The Divine Blessing was invoked by Senator Stanley Koki, Hawaii State Senate, after which the Roll was called showing all Senators present with the exception of Senators Grauly, Iwase and Reed who were excused.

The President announced that he had read and approved the Journal of the Seventh Day.

## MESSAGE FROM THE GOVERNOR

Gov. Msg. No. S2-93, informing the Senate that on September 1, 1993, he signed the following bills into law:

House Bill No. S1-93 as Act 1, entitled: "RELATING TO STATE BONDS";

House Bill No. S2-93 as Act 2, entitled: "RELATING TO THE SPECIAL FUND APPROPRIATION FOR HIGHWAYS ADMINISTRATION"; and

House Bill No. S3-93 as Act 3, entitled: "MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS";

was read by the Clerk and was placed on file.

## HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. S5-93 to S8-93) were read by the Clerk and were disposed of as follows:

Hse. Com. No. S5-93, transmitting H.B. No. S7-93, which passed Third Reading in the House of Representatives on September 3, 1993, was placed on file.

On motion by Senator Ann Kobayashi, seconded by Senator George and carried, H.B. No. S7-93, entitled: "A BILL FOR AN ACT RELATING TO A CONVENTION CENTER," passed First Reading and was referred to the Special Committee on the Convention Center.

Hse. Com. No. S6-93, transmitting H.B. No. S8-93, which passed Third Reading in the House of Representatives on September 3, 1993, was placed on file.

On motion by Senator Ann Kobayashi, seconded by Senator George and carried, H.B. No. S8-93, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT," passed First Reading and was referred jointly to the Committee on Ways and Means and the Committee on Government Operations, Environmental Protection and Hawaiian Programs.

Hse. Com. No. S7-93, transmitting H.B. No. S9-93, which passed Third Reading in the House of Representatives on September 3, 1993, was placed on file.

On motion by Senator Ann Kobayashi, seconded by Senator George and carried, H.B. No. S9-93, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS," passed First Reading and was referred jointly to the Committee on Ways and Means and the Committee on Education, Labor and Employment.

Hse. Com. No. S8-93, transmitting H.B. No. S10-93, which passed Third Reading in the House of Representatives on September 3, 1993, was placed on file.

On motion by Senator Ann Kobayashi, seconded by Senator George and carried, H.B. No. S10-93, entitled: "A BILL FOR AN ACT RELATING TO STATE OFFICERS AND EMPLOYEES EXCLUDED FROM COLLECTIVE BARGAINING AND MAKING APPROPRIATIONS AND OTHER ADJUSTMENTS," passed First Reading and was referred jointly to the Committee on Ways and Means and the Committee on Education, Labor and Employment.

At 5:15 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 5:34 o'clock p.m.

## ORDER OF THE DAY

## THIRD READING

S.B. No. S2-93:

By unanimous consent, S.B. No. S2-93, entitled: "A BILL FOR AN ACT RELATING TO A CONVENTION CENTER," was recommitted to the Special Committee on the Convention Center.

S.B. No. S3-93:

Senator Ann Kobayashi moved that S.B. No. S3-93, having been read throughout, pass Third Reading, seconded by Senator Chang.

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

"Mr. President, I rise to speak in support of this bill. This bill goes a long way toward providing Hawaii with a comprehensive and workable procurement code. The new law will establish some of the safeguards, such as a chief procurement officer and a compliance audit unit, which are sorely needed to monitor the purchasing operations of the state.

"Let me clarify one point. My support of this bill is based upon this understanding of Section 304 of the bill, which deals with the procurement of professional services: competitive sealed proposals, otherwise known as RFP, is to be the preferred method of selecting professional services. There should be some flexibility in the system, and this section provides for some of that, but I want to make it very clear that the pre-qualification and screening method of procuring professional services is intended to be more of an exception than a rule. I want this understanding to be on record because when the policy office meets a few months from now to draft rules for procuring professional services, I want them to keep this in mind: competitive sealed proposals is to be the preferred method of obtaining professional services.

"Thank you."

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

"Mr. President, I applaud the efforts of the Ways and Means chairman, Senator A. Kobayashi, who steadfastly maintained the Senate position on several key issues. I also compliment the dedication of the various staff members who worked on the bill, especially, the staff of

the Senate Majority Attorney's Office, who stood by around-the-clock to draft and refine the measure.

"Thank you."

Senator Matsuura then added:

"Mr. President, we should also compliment and congratulate the previous speaker in his role in drafting the procurement code. I've got to congratulate, of course, the chairman of Ways and Means because she stood very firm, very, very firm to the Senate bill. Thanks to both of them we do have a procurement bill that is very good.

"Thank you very much."

The motion was put by the Chair and carried, and S.B. No. S3-93, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (Graulty, Iwase, Reed).

At 5:40 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 5:43 o'clock p.m.

#### ADJOURNMENT

At 5:44 o'clock p.m., on motion by Senator Ikeda, seconded by Senator Koki and carried, the Senate adjourned until 11:00 o'clock a.m., Tuesday, September 7, 1993.

## NINTH DAY

**Tuesday, September 7, 1993**

adjourned until 2:00 o'clock p.m., Thursday, September 9, 1993.

The Senate of the Seventeenth Legislature of the State of Hawaii, Special Session of 1993, convened at 11:19 o'clock a.m. with the Vice President in the Chair.

The Divine Blessing was invoked by Senator Eloise Yamashita Tungpalan, Hawaii State Senate, after which the Roll was called showing all Senators present with the exception of Senators Aki. Chang, Fukunaga and Reed who were excused.

The Chair announced that he had read and approved the Journal of the Eighth Day.

At 11:25 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:35 o'clock a.m.

**STANDING COMMITTEE REPORTS**

Senators A. Kobayashi and McCartney, for the Committee on Ways and Means and the Committee on Education, Labor and Employment, presented a joint report (Stand. Com. Rep. No. S9-93) recommending that H.B. No. S9-93, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Ikeda, seconded by Senator George and carried, the joint report of the Committees was adopted and H.B. No. S9-93, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS," passed Second Reading and was placed on the calendar for Third Reading on Thursday, September 9, 1993.

Senators A. Kobayashi and McCartney, for the Committee on Ways and Means and the Committee on Education, Labor and Employment, presented a joint report (Stand. Com. Rep. No. S10-93) recommending that H.B. No. S10-93, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Ikeda, seconded by Senator George and carried, the joint report of the Committees was adopted and H.B. No. S10-93, entitled: "A BILL FOR AN ACT RELATING TO STATE OFFICERS AND EMPLOYEES EXCLUDED FROM COLLECTIVE BARGAINING AND MAKING APPROPRIATIONS AND OTHER ADJUSTMENTS," passed Second Reading and was placed on the calendar for Third Reading on Thursday, September 9, 1993.

Senator Holt, for the Special Committee on the Convention Center, presented a report (Stand. Com. Rep. No. S11-93) recommending that H.B. No. S7-93, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Ikeda, seconded by Senator George and carried, the report of the Committee was adopted and H.B. No. S7-93, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO A CONVENTION CENTER," passed Second Reading and was placed on the calendar for Third Reading on Thursday, September 9, 1993.

**ADJOURNMENT**

At 12:20 o'clock p.m., on motion by Senator Ikeda, seconded by Senator George and carried, the Senate

## TENTH DAY

Thursday, September 9, 1993

The Senate of the Seventeenth Legislature of the State of Hawaii, Special Session of 1993, convened at 2:06 o'clock p.m. with the President in the Chair.

The Divine Blessing was invoked by the Reverend Alan M. Urasaki, Honpa Hongwanji Mission of Hawaii, after which the Roll was called showing all Senators present with the exception of Senator Reed who was excused.

The President announced that he had read and approved the Journal of the Ninth Day.

## HOUSE COMMUNICATION

Hse. Com. No. S9-93, returning S.B. No. S3-93, which passed Third Reading in the House of Representatives on September 9, 1993, was read by the Clerk and was placed on file.

At 2:11 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 2:16 o'clock p.m.

## ORDER OF THE DAY

## THIRD READING

H.B. No. S9-93:

On motion by Senator Ann Kobayashi, seconded by Senator McCartney and carried, H.B. No. S9-93, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

H.B. No. S10-93:

On motion by Senator Ann Kobayashi, seconded by Senator McCartney and carried, H.B. No. S10-93, entitled: "A BILL FOR AN ACT RELATING TO STATE OFFICERS AND EMPLOYEES EXCLUDED FROM COLLECTIVE BARGAINING AND MAKING APPROPRIATIONS AND OTHER ADJUSTMENTS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

H.B. No. S7-93, S.D. 1:

Senator Holt moved that H.B. No. S7-93, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Ann Kobayashi.

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

"Mr. President, I have some remarks in support of this measure which I'd like to have entered into the journal."

The Chair, having so ordered, Senator Fukunaga's remarks read as follows:

"Mr. President, I rise to speak in support of SB S7-93, but with grave reservations.

"Today we are voting on a measure which, apart from highways and airports projects financed partially through user fees or federal matching funds, represents the biggest public works project in the State of Hawaii.

"This project, which is projected to cost at least \$350 million, is a convention center complex that will be located at the old Aloha Motors site or on the Ewa end of Ala Wai Golf Course. Industry analysts have projected conservatively that the tax revenues which will be generated by this project will be at least \$335.8 million a year, or even higher.

"Many argue that a convention center will provide a critical boost to the state's economy, to the visitor industry, to the thousands of ancillary jobs, businesses and individuals whose livelihoods are impacted by Hawaii's visitor industry. I don't dispute that point.

"But what about the neighborhoods and communities which must bear the brunt of the impacts produced by such a convention center? What about the residents of the Ala Moana/Waikiki areas, whose homes are located in the densest and most heavily-congested traffic corridors in Honolulu? What about the residents and businesses in the McCully-Moiliili and Kapahulu neighborhoods, whose communities represent the last vestiges of thriving small-business and family neighborhoods in urban Honolulu? What does this bill do to them?

"First, this bill eliminates the specific requirements for public comment and input that were originally part of the state's convention center legislation enacted in 1988:

It eliminates the requirement for public hearings on the convention center development plan before the Waikiki Convention Center Authority (WCCA), while WCCA supersedes all other state or county planning and zoning review. And, mind you, the areas in which WCCA supersedes City and County of Honolulu review will also include flood insurance coverage determination.

It also eliminates the specific requirement for an Environmental Impact Statement by virtue of the fact that the project falls within a designated convention center district.

"At the same time, this bill provides no guarantee that traffic congestion, parking and traffic flow issues will be addressed to the communities' satisfaction. There is nothing in the bill which addresses the sorry physical condition of the Ala Wai Canal, except for the statement, 'If development of a convention center facility at the Ala Wai Golf Course site is effectuated pursuant to this section, then watershed management activities shall be implemented to carry out the clean up and maintenance of the Ala Wai Canal.' There is nothing in this bill which suggests any mitigation of density, congestion, increased noise, crime or quality-of-life degradation issues for the affected communities.

"When the City Council votes on zoning and development issues, it often extracts impact fees or community benefits -- in the form of recreational facilities, improved infrastructure or other community services -- to help balance the equation for those whose homes and lives will be impacted by large-scale development. There are no such benefits here. We talk about generating over \$3.281 billion in new convention visitor spending in Hawaii, which will revitalize our visitor industry and Hawaii's overall economy. No portion of that new income is promised or earmarked to assist these affected communities.

"In short, while the Legislature can be commended for finally taking action on convention center development, our actions today are an affront to the residents of the McCully-Moiliili, Kapahulu, or Ala Moana/Waikiki communities. We tell them, in effect, 'you must bear the downside of convention center development without any promise of mitigating community benefits.' And then we take away any means for input, participation in the decision-making process or protest. I think we owe them a whole lot more.

"Thank you."

Senator Matsunaga also rose to speak in support of the bill and stated:

"Mr. President, first, let me commend the Senate's chief negotiator for his hard work and skillful negotiations, under intense public scrutiny, in formulating a bill that should bring significant economic benefits to our state -- benefits which have been articulated numerous times by economists and business people alike, and benefits which should enable us to make a stronger commitment to our children and educational system.

"My concerns are twofold: 1. The potential liability to the state for environmental clean-up costs; and 2. The continuing need to strengthen and diversify our economy.

"Item 1: Federal laws impose strict liability upon an owner or operator of contaminated real property. The Federal Government will force an owner of contaminated real property to clean up the contamination (often, at tremendous cost), even if such owner did not contaminate the property. So, at the risk of stating the obvious, I urge the Convention Center Authority to take all steps necessary to minimize the risk of liability to the state. I would hate to see such liability destroy the benefits our economy should receive.

"Item 2: We still have a lot of work ahead of us to strengthen and diversify our economy. I'm reminded of advice my high school basketball coach gave me. He said, 'Don't celebrate too much after you make a nice shot. Your opponent is likely to make a nicer shot while you're celebrating. Play some defense instead.' So although this bill is a big step in helping our ailing economy, we can't celebrate too much. We must 'play some defense' now and focus on diversifying our economy. The telecommunications industry is an ideal industry that we should promote in this state. It's environmentally clean, it's high tech, its potential is tremendous, and it would provide good jobs for our working people.

"I hope that in the next session we will pass bills to stimulate our telecommunications industry. Thank you."

Senator Blair, against the measure, said:

"Mr. President, I rise to speak in opposition to the bill, on procedural grounds.

"Before I get into the substance of my remarks, Mr. President, I'd like to request that my letter to you dated September 3, be included as part of my remarks (see - Attachment "A"). It discloses a conflict that I would have had, if I were voting in favor of the bill. The fact that I'm voting against it negates that conflict. Nonetheless, I think the journal should reflect the facts and, without going into them at this point, make that request.

"As to the reasons for my voting against the bill, Mr. President, it is not based on the substance of the bill,

which is territory I will not dwell on today. I have previously expressed my preference that the members of this body choose a site, rather than two sites. It probably doesn't bear repeating at this hour.

"However, there is one matter that does need to be stated in the record: process. I note that the previous speaker commended our, he used the words 'chief negotiator', and stated that the chief negotiator negotiated under 'intense public scrutiny.' I would agree with the characterization of the individual as being the chief negotiator, in fact the sole negotiator. However, the intense public scrutiny is of a different type than was envisioned by the drafters of Article III, Section 12, of the Constitution of the State of Hawaii, which reads in pertinent part: 'Every meeting of a committee in either house or of a committee comprised of a member or members from both houses held for the purpose of making decisions on matters referred to the committee shall be open to the public.'

"The committee report adopted by the Standing Committee on the Legislature of the 1978 Constitutional Convention elaborated very little on this. What they did say is that the language added to the section requires that all decision-making meetings of a legislative committee shall be open to the public. They expressed the belief that it was already the current practice of both houses of the state Legislature, by their respective rules, but decided that the public's right-to-know what their legislators were deciding was deserving of constitutional protection. They stated that the amendment was not intended to require that certain kinds of meetings, including organizational meetings, partisan caucuses, and certain hearings involving the invasion of a persons right-to-privacy if made public, shall be open to the public.

"The secret negotiations between our chief negotiator and the Speaker of the House, as the sole negotiator on behalf of the House, occurred for political reasons that are constitutionally inadequate. The fact that these secret 'conference committee' meetings occurred prior to the introduction of the bill does not in any way negate the controlling intent of the constitutional provision. Any meeting of representatives from two houses for the purposes of reaching a decision must be open to the public. That was not done in this case. It would be hard to imagine a clearer violation of Article III, Section 12. There can be no doubt that negotiations occurred; in light of the number of occasions when the respective negotiators went on television and said the Senate position is this, or the House position is that, or we're meeting and discussing this, and then finally, we've resolved the differences between the House position and the Senate position. It's hard to characterize what occurred other than as a conference committee between the House and Senate, even though it predated the introduction of the bill.

"We cannot elevate the form of our process over the substance of the constitution. We cannot elevate the exigencies of politics, as we perceive them, over the mandates of the Constitution of the State of Hawaii. It is for that reason that I will be voting 'no' and I urge my colleagues to do likewise. Thank you."

Senator Matsuura rose to support the measure and stated:

"Mr. President, I speak in support of the bill and I congratulate the Senator from Kalihi in developing this bill for our vote today.

"I was asked, a few days ago when I was in Hilo, could the state put up this convention center at Aloha Motors for \$350 million? (That includes the purchase of the land

and the construction of a world-class convention center.) My answer was 'yes,' but with reservations. If the private developer had the money to put up the convention center as the City Council has approved, then the Convention Center Authority may not be able to build it for \$350 million. However, if the money is not there, and knowing of the tight money situations throughout the world, if the money is not there to put up the four hotel towers and the convention center, then you're going to find that the state Convention Center Authority may be able to complete the project under \$350 million. The reason why I say that is because any bank who owns the land, and I'm told that the Mitsui Bank owns the land, if they do not have the total financial commitment to do the total project, I'm sure that Mitsui Bank will not want to be stuck with a piece of property in Hawaii where they cannot fulfill their commitment.

"There are many projects that have been started throughout the United States which were financed by large banks, such as Mitsui. You'll find that the banks were very generous when the financial situation changed in Japan. The banks have taken 50 cents on a dollar just to get out of the project. The purpose of standing up today is to make sure that the Convention Center Authority, when they go to negotiate for the price of the Aloha Motors land, that they consider talking to the developer and the landowners, which is the bank. If the bank is the landowner then at least talk to them also, because the land price may come down considerably. That's my only request to the persons on the Convention Center Authority board.

"Thank you very much."

Senator Solomon then rose to speak against the measure as follows:

"Mr. President, I rise in opposition to the bill before this body. I do so for the simple reason that we have no legitimate basis for involving ourselves in what is clearly the business of the City and County of Honolulu. No other legislature in the nation has created a state convention center authority nor authorized the construction of a state convention center.

"We are right now spending public funds at the rate of tens of thousands of dollars per day debating something which should be decided by another governmental entity more directly concerned. Accepted administrative, political and fiscal principles dictate that the mayor and the City Council be responsible for the decision concerning the development of a convention center in Honolulu. The truly troubling question is: 'Why, in the face of those basic principles of governing, are we here today?' Why does this Legislature so blatantly disregard county 'home rule' without so much as a 'buy your leave?' The answer to that question can go a long way toward explaining the overall governmental mess in Hawaii today.

"It's been almost a century since those who Lorrin Thurston called the 'mission boys' took over the governance of the Territory of Hawaii. In 1903 the attorney general of Hawaii stated that 'the Government of the Territory of Hawaii is centralized to an extent unknown in the United States and probably as centralized as the Government of France under Louis XIV.' The Big Five completely controlled sugar and every business associated with it: banking, insurance, utilities, merchandising, railroads, and shipping -- and with that control went complete political power. Every territorial governor was in office at the sufferance of those Republican interests and the office of the appointed governor itself was wisely maintained by them as the

repository of all governmental control. Effective county or municipal government was nonexistent.

"In 1954, following the dislocation of the war, the Democratic Party for the first time gained control of both houses of the state Legislature. The Democratic Party Platform of that year stated the three overriding goals defining what it meant to be a Democrat in Hawaii in those exciting days:

1. Break up the land monopoly;
2. Create an education system second to none; and, lastly,
3. Establish Home Rule for the counties.

"Between 1900 and 1940, 80 percent of all territorial legislators were Republicans. It's been another 40 years since we Democrats have taken control of the levers of legislative power. Now, 90 percent of all legislators are Democrats. Yet, Mr. President, the land monopoly has not been broken up. Our educational system is among the worst in the nation (Kealahou High School needs \$25 million badly. We must have a new intermediate school in Waimea. Statewide, 7,000 new classrooms are lacking.) and virtually all governmental power lies with the Democratic State Administration. (On the neighbor islands, the counties do not have the capability of even maintaining its own roads.)

"What has it meant for Hawaii when so much power is in so few hands; when there has been no effective and empowered alternate political leadership?

"It means we can expect more statements like those in Sunday's local paper referring to 'the Old Boy Network' and to 'campaign shakedowns' or those in the 'London Economist' referring to Hawaii as a one-party state comparing our political system to that of the corrupt LDP in Japan.

"I believe that the principal cause of the political rot and corruption so evident in our state today is that very centralization of governmental power -- a centralization without equal in any other state in the Union. In the well-known words of Lord Acton, 'Power corrupts... and absolute power corrupts absolutely.'

"The Democratic State Administration now possesses virtually absolute governmental power and Lord Acton's statement is demonstrably correct.

"Mr. President, I urge a vote against this bill and for Home Rule in order that this body may begin a new political revolution by returning to the principles of those Democratic reformers of 40 years ago. Thank you."

Senator Chang also rose to speak against the bill and stated:

"Mr. President, I commend the efforts of the Senator from Kalihi in crafting a bill that reflects the prevailing position of the majority members of the Senate. However, I've never concurred with that position and most of the reasons why I've not concurred have to do with the comments made by my colleague from Kohala.

"Local government (the City and County of Honolulu) has made several decisions about the area surrounding the Ala Wai Golf Course. One is that the golf course itself shall be held for recreational purposes for use by the citizens of the City and County of Honolulu. The second has to do with the positioning of schools in the area. Mr. President, we have three schools in the area: Ala Wai Elementary, Kaimuki High School, and Iolani School. As I have stated publicly in the hearings before the Senate Committee on Tourism, Recreation and Transportation,

and privately to the advocates of the Ala Wai Golf Course site, until the concerns relating to the safety of children attending those schools are addressed by the advocates of the Ala Wai Golf Course, I cannot concur with any proposal that includes that site. Unfortunately, the bill before us contains the Ala Wai Golf Course site as a secondary option and for this reason I will be compelled to vote 'no.'

"Thank you."

Senator Ann Kobayashi then rose to speak in support of the measure and said:

"Mr. President, I rise to speak in favor of this bill. I'd like to thank the negotiator. He did an excellent job with the House and we came out with a very good bill.

"I look forward to seeing a beautiful first-class, world-class convention center at the Aloha Motors site. It's all in the hands now of the Convention Center Authority, they will have to negotiate wisely and budget wisely.

"Today, the Council on Revenues met, our revenue projection is not good at all and I do hope that the Convention Center Authority will take all these matters into account. At \$300 million the financing for the convention center will be manageable; at 350 it will be a little tight, but we'd be able to handle it; but over 350, we'd be reaching into the pockets of the taxpayer so we have to be sure that the amounts we pay are budgeted wisely. We would not want to see a building come up, then having the Convention Center Authority come to see us and say, we have this, really a warehouse of a building, if you want more walls here or better facade you'll have to give us more money, or if you want the landscaping better then we need more money. In other words -- we do not want to see another Capitol renovation fiasco.

"Thank you."

Senator Koki added his remarks in support of the measure and said:

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

"In 1986, this Legislature passed a transient accommodations tax to build a convention center. Hotels all over the state have been paying millions of dollars a year for a convention center, yet this is 1993 and ground has not even been broken. The convention center issue is not only an economic one, it is a moral one. The issue of a convention center was settled in 1986, let's follow through on whatever we promised the State of Hawaii. Our economy is deteriorating, and so is our tax revenues.

"I urge my colleagues to vote in favor of this bill. Thank you."

Senator Bertrand Kobayashi also rose to speak in support of the measure as follows:

"Mr. President, I rise to speak in favor of the bill with some reservation. I'd like to comment on some of the points made by previous speakers.

"I've often heard that when the hotel room tax bill was first passed in 1986 that there was some sort of understanding that the tax was tied in with the convention center. I believe that that was the intent of certain members of the Legislature. However, that was not the language of the bill and certainly not an openly and publicly stated commitment by any of the major players in that TAT (transient accommodations tax). I think that those of us who were around can remember voting on that

bill and, during the public discussions about this bill, the convention center was mentioned but it was not mentioned as a quid pro quo promise. There was no guarantee made in public; there was no statement in the committee report; no statement in the bill itself that said that this money is for the convention center. I think that it was the intention of some members of the Legislature, the hope of many members of the Legislature, and the hope of many members in the community, that the two were linked together. But so far as any guarantee of the TAT and the convention center being linked, I believe that that link was not made at the time.

"I would note also that the previous speaker had mentioned that we should not violate the 'home rule' principle and have the state get into the convention center business. I believe that 'home rule' is something that we all strived for at one time or another in our political career, but in this particular sense, 'home rule' will result in a mini convention center, a half-a-loaf, a half-adequate convention center. The convention center as passed by the City Council will result in a convention center with only 120 thousand square feet of exhibition space with no capability for expansion. To build a center that small on a piece of land without expansion capability, when you will have a building with a long lifetime of perhaps 30 or more years, I think is to make for short-sighted, ill-fated, long-term investment. And I think that we are wise to try to get what we want and need, pay for it, if necessary, through the hotel room tax, which of course as we know would not affect many of the local residents' pocketbooks. So in this regard, I think that home rule, while a good principle, does not apply in this case.

"The other point I'd like to make is that I believe that the convention center will be an economic bonus to the community. The convention center proponents had stated that they expect that by the fifth year of operation, there will be some \$335-million-a-year in additional tax revenues generated because of the convention center. Personally, I think that \$335 million is a gross exaggeration -- that amounts to almost \$1 million a day for each day of the year -- and I don't believe one facility, even if fully used by the fifth year of operation, will bring in that kind of resources. Nonetheless, even if the convention center does bring in \$100 million less, and I hope no economist can be wrong by \$100 million (although that has happened), that will still be a considerable source of new revenues for the State of Hawaii.

"And so, in voting for the convention center, we're voting for something that I think will indeed benefit the general citizenry and, hopefully, make for new opportunities for many of our youngsters here in Hawaii. Thank you."

Senator Matsunaga requested a ruling from the chair as follows:

"Mr. President, I request a ruling of a potential conflict of interest. I'm a partner of the law firm Carlsmith Ball, our firm represents First Development. First Development, I'm not sure, may or may not have an ownership interest in the Aloha Motors site. In addition, one of our partners is on the board of the Queen Emma Foundation."

The Chair ruled that Senator Matsunaga was not in conflict.

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

"Mr. President, last night I was at the Kahlua Neighborhood Board meeting and I spoke to the



neighborhood board members and I shared with them that I've been in office for five years; that it has been a privilege and an honor and it's something that I'm proud of being involved with, but I told them that these last few months have probably been the most disappointing, the most depressing and the most frustrating that I've experienced as a public servant. I think it's been a frustrating time for all of us.

"I want to say that I think our negotiator had a very tough job and did the best he could. He went and negotiated with the House who had a very, very strong position, and we all realized that the position within the Senate was very divided, and he came up with a bill that reflects consensus. We have 76 people with 76 different personalities, 76 different ideas and 76 different backgrounds, and achieving consensus is a challenge. We are elected to lead and to make tough decisions on behalf of the people. In my mind, this bill reaches consensus and it is good public policy and it supports the needs of the people. In the long run, I think that it will be good public policy for the people of Hawaii and, therefore, Mr. President, I'm supporting the bill.

"Furthermore, Mr. President, I think that what has happened over the last few weeks is a wake up call for all of us. All of us need to get our act together. We need to start working together as one body to meet the needs of the people first and put politics aside in order to do our job. Thank you, Mr. President."

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

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

"Mr. President, before proceeding, I'd like to take this opportunity to comment on the negotiations with the House on this measure. As you well know, the negotiations were difficult and extremely delicate. From the beginning, strong positions were taken by both the House and Senate resulting in a steady deterioration in our efforts to communicate. The turning point in our negotiations, however, occurred when certain remarks were made questioning the Senate's commitment to its official position on the convention center and the extent of my support as chief negotiator. At first, I did not take these remarks seriously, but when the House used this as a reason for stalling negotiations, it was obvious that an immediate response from the Senate was necessary in order to defend the integrity of this body and resume negotiations. Within the next 24 hours, I solicited 13 signatures on a Senate resolution to strongly reaffirm our position on the convention center issue and my appointment as chief negotiator. When faced with this document which reflected the silent support of the Senate, the House had no choice but to resume our negotiations and seriously reconsider its strategy.

"To summarize, Mr. President, I'm very proud of the Senate's ability to instantly demonstrate its strong commitment and cohesiveness on this difficult issue when called upon. If not for this strong commitment and the faith and confidence of my colleagues, I would not have been able to successfully negotiate the bill that we currently have before us. For this, I would like to humbly thank the Senate leadership, the caucus, and the rest of my colleagues who supported my designation as chief negotiator. While I fully understand that much, if not all of my support, was based on the perception that 'only Holt is crazy enough to enjoy negotiating with the House Speaker,' I nevertheless deeply appreciated the opportunity. In retrospect, I should have added this point in the form of a whereas in the resolution, I'm sure that it would have gotten me a few more signatures.

"On a more serious note, Mr. President, it has taken us nearly six years to get to where we are today on this issue, and this measure is the final product. For the record, I firmly believe that this product fully and ultimately addresses the concerns of our tourism industry and for the long-term, the overall welfare of our state's economy. The industry demanded and this bill delivers -- a world-class convention center which meets every major criteria that they established and recommended. Perhaps even more importantly, the bill also establishes a process for the guaranteed selection of an appropriate site, either of which will unconditionally meet all of the world-class criteria.

"As I stated previously on several occasions, the process would require that first consideration be accorded to the Aloha Motors site before progressing to the Ala Wai as a fallback. The purpose of this site selection sequence is twofold: first, it would give priority to a privately owned site, which would not displace any existing residents, uses, or activities and has the least public opposition, before proceeding to a public site which would partially decrease some of the greenbelt and scarce public recreational facilities immediately surrounding Waikiki; and second, it authorizes the development of public lands -- only in the event that an agreement cannot be reached with the private landowner.

"I would like to stress at this point, that the governor and the Convention Center Authority has assured me that every effort will be made to negotiate an agreement with the private landowner within the allotted time. I therefore have every reason to believe that they will live up to this promise. In any event, the undisputed need for a convention center will be fulfilled with the passage of this bill. This is an extremely important point, Mr. President, that seems to have been lost within the acrimonious competition between the proposed sites.

"In the final analysis, we in the Legislature must not and cannot lose site of the issue and the reason we are still in special session. The issue is not about the site of the convention center, the issue is, and has always been, the critical need to build a convention center in order to provide a measure of stability for tourism, the major engine which drives our entire state economy. For these reasons, Mr. President, I would like to strongly urge my colleagues to join me in working towards securing our economic future of this state by voting in support of this bill.

"Thank you."

The motion was put by the Chair and carried, and H.B. No. 7-93, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO A CONVENTION CENTER," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 4 (Blair, Chang, Fernandes Salling, Solomon). Excused, 1 (Reed).

At this time the President made the following remarks:

"The Chair would like to thank all of the members for your patience and your hard work these past few days. It's really been a trying time for all of us. Thank you very much."

#### ADJOURNMENT

At 2:55 o'clock p.m., on motion by Senator Ikeda, seconded by Senator George and carried, the Senate adjourned until 11:00 o'clock a.m., Monday, September 13, 1993.

ATTACHMENT "A"

THE SENATE  
THE SEVENTEENTH LEGISLATURE  
of the  
State of Hawaii  
STATE CAPITOL  
HONOLULU, HAWAII 96813

September 3, 1993

HAND DELIVER

The Honorable James Aki, President  
State Senate  
Hemmeter Building  
Room 507  
Honolulu, Hawaii 96813

Dear President Aki:

When we vote on the convention center bill, this afternoon, I will request a ruling on a conflict of interest. The conflict is that my wife is a director and shareholder in a law firm which includes the Queen Emma Foundation among its clients. This is a conflict which should, in my opinion, disqualify me from voting for a bill which, if the Aloha Motors site falls through, will indirectly but significantly benefit the Queen Emma Foundation.

If my vote is critical to the disposition of the bill, my wife is willing to remove the conflict by resigning her position as a director and stockholder. That is a rather drastic step, but entirely warranted by the importance of the issue.

Should my vote be required, I am not yet sure that I can support the bill. I have serious reservations. However, I am open minded and will decide after all of the floor remarks and debates.

Very truly yours,

/s/ Russell Blair  
Russell Blair

## ELEVENTH DAY

**Monday, September 13, 1993**

The Senate of the Seventeenth Legislature of the State of Hawaii, Special Session of 1993, convened at 11:09 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by Sister Ancilla Hirsch, Daughters of St. Paul FSP, after which the Roll was called showing all Senators present with the exception of Senator Reed who was excused.

The President announced that he had read and approved the Journal of the Tenth Day.

Senator Grauly then introduced to the members of the Senate Mr. Wes Shirai of HGEA, who is the Loan Executive to the Aloha United Way for the Senate. Mr. Shirai was seated in the gallery.

## SENATE RESOLUTIONS

The following resolutions (S.R. Nos. S4-93 and S5-93) were read by the Clerk and were disposed of as follows:

Senate Resolution:

No. S4-93 "SENATE RESOLUTION AUTHORIZING THE PRESIDENT TO APPROVE THE JOURNAL OF THE SENATE FOR THE ELEVENTH DAY OF THE SPECIAL SESSION OF 1993."

Offered by: Senators Matsuura, George.

On motion by Senator Ikeda, seconded by Senator George and carried, S.R. No. S4-93 was adopted.

No. S5-93 "SENATE RESOLUTION INFORMING THE HOUSE OF REPRESENTATIVES THAT THE SENATE IS READY TO ADJOURN SINE DIE."

Offered by: Senators Matsuura, George.

On motion by Senator Ikeda, seconded by Senator George and carried, S.R. No. S5-93 was adopted.

At this time, Senator Tungpalan, on behalf of the members of the Senate and staff, rose to wish President Aki a very 'Happy Birthday' and presented him with a lei.

At 11:14 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:01 o'clock p.m.

The President then made the following closing remarks:

"The Chair would like to take this opportunity to thank all of you for your efforts. We've been here for three weeks now and we accomplished all we have set out to do.

"At this time, if there are no further announcements, the Chair would like to entertain a motion to adjourn sine die. But before I call for the final adjournment, I'd like to also spare all of you the agony of hearing my crackly froggy voice. I have some remarks that I'd like to have inserted into the journal."

The President's remarks read as follows:

"Members of the Senate, we are about to adjourn this Special Session of 1993. We have been here for three

weeks, hammering out crucial business of the state that could not wait until 1994. During this period there were highs and lows; for a while it even looked like we would have to go home without a convention center and a new procurement code. Sometimes we fought with the House, and sometimes with each other, but I don't think any of us ever lost faith. There is something inherently fine and decent about this body, the Senate, that always seems to rise to the surface when the going gets tough.

"On August 23 we were called into Special Session by the governor primarily to correct the bond bill and parts of the State Budget. This was necessary to enable important expenditures in this new fiscal year. We also fixed the no-fault bill, because for too long we have seen our motorists paying more than they can afford for the privilege of operating their vehicles on the state's highways. I am proud to note for the record that these measures were deliberated and passed with efficiency, as was expected of us.

"We also agreed to deliberate on procurement and the convention center, the two vital issues on which the House and the Senate had failed to reach agreement prior to the adjournment of the 1993 Regular Session. We had set our sights at reaching consensus with the House prior to the August 23 convening, but both issues continued to prove themselves unyielding and elusive. Nevertheless, we kept our sights high, and although it looked for a time as if we would have to go home unfulfilled, we persisted.

"I wish to state here and now that I am proud of each and every one of you. You have crafted and passed two excellent bills that will serve the interests of the people of Hawaii for generations to come.

"And in this regard, I wish to especially thank: Senator Holt for his untiring efforts in the quest for a convention center; Senators Ann Kobayashi and Chang for facilitating the enactment of a comprehensive code of purchasing laws that will enable full accountability and efficiency in the expenditure of public moneys; the loyal and hard-working Senate staff who endured with us through our long deliberations and produced the documents on which we have voted; Governor Waihee for lending the full measure of his assistance to our efforts; and all the public and private groups and individuals who rallied support for our deliberations and kept us on track.

"We will soon forget the long, hot summer days and nights spent agonizing over these issues, but an improved economy, thanks to the convention center, and ever-increasing confidence in the way in which the state and counties conduct business, thanks to a new procurement code, all these will remain as monuments to our efforts. Thank you."

## ADJOURNMENT

Senator Ikeda moved that the Senate of the Seventeenth Legislature of the State of Hawaii, Special Session of 1993, adjourn Sine Die, seconded by Senator George and carried.

At 12:03 o'clock p.m., the President rapped his gavel and declared the Senate of the Seventeenth Legislature of the State of Hawaii, Special Session of 1993, adjourned Sine Die.

**GOVERNOR'S MESSAGES RECEIVED AFTER THE ADJOURNMENT OF THE  
SPECIAL SESSION OF THE LEGISLATURE SINE DIE**

**Gov. Msg. No. S3-93**, informing the Senate that on September 13, 1993, he signed into law House Bill No. S6-93 as Act 4 (of the Special Session of 1993), entitled: "RELATING TO NO-FAULT INSURANCE."

**Gov. Msg. No. S4-93**, informing the Senate that on September 21, 1993, he signed the following bills into law:

House Bill No. S9-93 as Act 5 (of the Special Session of 1993), entitled: "MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS."; and

House Bill No. S10-93 as Act 6 (of the Special Session of 1993), entitled: "RELATING TO STATE OFFICERS AND EMPLOYEES EXCLUDED FROM COLLECTIVE BARGAINING AND MAKING APPROPRIATIONS AND OTHER ADJUSTMENTS."

**Gov. Msg. No. S5-93**, informing the Senate that on October 4, 1993, he signed the following bills into law:

House Bill No. S7-93 as Act 7 (of the Special Session of 1993), entitled: "RELATING TO A CONVENTION CENTER."; and

Senate Bill No. S3-93 as Act 8 (of the Special Session of 1993), entitled: "RELATING TO PROCUREMENT."

\* \* \* \* \*

**HOUSE COMMUNICATIONS RECEIVED AFTER THE ADJOURNMENT OF THE  
SPECIAL SESSION OF THE LEGISLATURE SINE DIE**

**Hse. Com. No. S10-93**, informing the Senate that the amendments proposed by the Senate to House Bill No. S7-93, S.D. 1 were agreed to by the House; and H.B. No. S7-93, S.D. 1, passed Final Reading in the House of Representatives on September 13, 1993.

## STANDING COMMITTEE REPORTS

**SCRep. S1-93 Consumer Protection on S.B. No. S1-93**

The purpose of this bill is to make amendments to the State's no-fault insurance laws.

In the Regular Session of 1993, the Legislature passed H.B. No. 775, H.D. 1, S.D. 1, C.D. 1 (H.B. No. 775). That bill was vetoed by the Governor for various reasons. This bill remedies the concerns of the Governor.

Like H.B. No. 775, this bill also repeals the current language in section 431:10C-110, Hawaii Revised Statutes, popularly known as the "take all comers provision," and allows insurers annually to nonrenew or conditionally renew two percent of their total policies. It is not the intent of your Committee to require a written rejection of the application prior to placing coverage under the joint underwriting plan. Your Committee believes that this change will encourage new companies to enter the insurance market in Hawaii, thereby increasing the availability of no-fault insurance, promoting competition that should stabilize premium rates, and increasing the availability of homeowner's insurance to the local market. This bill also clarifies that the stated formula is in addition to the provisions of section 431:10C-111(a)(1), (a)(2), and (e), Hawaii Revised Statutes.

Section 431:10C-111, Hawaii Revised Statutes, is being amended to add an anti-discrimination provision to prevent insurers from refusing to continue a no-fault policy based solely upon a person's race, creed, ethnic extraction, age, sex, length of driving experience, marital status, residence, or physical handicap. This amendment makes this section consistent with other provisions in the Hawaii Revised Statutes. Insurers would also be prohibited from refusing to continue a no-fault policy because the insured has elected to obtain any coverage or deductible provided by law.

Section 431:10C-117, Hawaii Revised Statutes, is being amended to allow a judge to suspend the fine for a first time conviction for driving without a no-fault policy and to reduce the minimum fines for driving without a no-fault policy by one-half. Your Committee has left intact the option for a judge to grant community service in lieu of a fine. Provisions for suspension of a motor vehicle owner's or driver's license are left intact, but were nonsubstantively reorganized into another paragraph. Your Committee intends that a reduction or suspension of fines will provide some relief for drivers who are having difficulty obtaining no-fault insurance, especially in the aftermath of Hurricane Iniki.

Section 431:10C-301, Hawaii Revised Statutes, is being amended to clarify that an insurer is required to offer both the option to stack and the option to obtain higher limits of uninsured motorist coverage and underinsured motorist coverage. Your Committee wants to make clear that the consumer may choose one of these options or both. This bill also clarifies that the insured has the option to purchase higher limits up to the maximum amount of bodily injury coverage within the insurance policy. It is the intent of your Committee that an insurer shall offer various limits up to but not exceeding the maximum, and that the insured may choose any of those limits. Your Committee would like to make clear that this bill does not prohibit insurers from voluntarily offering uninsured motorist coverage and underinsured motorist coverage in excess of the insured's bodily injury coverage.

A new subsection (e) is also being added to section 431:10C-301, Hawaii Revised Statutes. It is the intent of your Committee that, if the insured initially rejects the basic uninsured or underinsured motorist coverages in a new policy, whichever is applicable, then the insurer need not offer the coverages again on any renewal or replacement of the policy and need not offer the optional coverages of stacking and increased limits as to the rejected coverage. Your Committee wants to make clear that the uninsured and underinsured motorist coverages are separate and that the rejection of one does not affect the offering of the other as to the basic coverage and the options relating to that coverage. Your Committee feels this provision will simplify and streamline the insurance application and renewal processes, making it easier for the insured to understand the policy.

Section 431:10C-308.7, Hawaii Revised Statutes, is being amended to prohibit health care providers from engaging in fee splitting. This bill also prohibits a health care provider from referring a patient to another entity in which the health care provider has a financial interest. The Governor's veto message expressed concerns about the meaning of "significant financial interest." Your Committee, upon consideration of those concerns, feels that any financial interest should be disclosed, and is amending the language accordingly.

This bill also provides a section which requires insurers to include savings as a result of Acts 123 and 124, Session Laws of Hawaii 1992, when filing their rates with the insurance commissioner. Your Committee also expects insurers to include any savings from this bill when filing their rates with the insurance commissioner. Your Committee requests the Insurance Commissioner ensure that any savings from this bill are factored into rates prior to approval.

Your Committee on Consumer Protection is in accord with the intent and purpose of S.B. No. S1-93, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. S2-93 Ways and Means on H.B. No. S1-93**

The purpose of this bill is to amend Act 344, Session Laws of Hawaii 1993, to incorporate a reference to Act 364, Session Laws of Hawaii 1993, in order to meet constitutional requirements pertaining to the issuance of general obligation bonds to finance a \$90,000,000 appropriation for the state educational facilities improvement special fund.

Act 344 was intended to satisfy Article VII, section 13 of the State constitution, which requires that every general law authorizing the issuance of general obligation bonds include a declaration that the total amount of principal and interest, estimated for those bonds and for all bonds authorized and unissued and calculated for all bonds issued and outstanding, will not cause the debt limit to be exceeded at the time of issuance. The failure of Act 344 to expressly reference Act 364,

which authorized the issuance of \$90,000,000 in general obligation bonds, rendered that bond authorization of questionable validity. This bill will cure any uncertainty regarding the authority to issue those bonds.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. S1-93 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Blair and Holt.

**SCRep. S3-93      Ways and Means on H.B. No. S2-93**

The purpose of this bill is to amend Act 289, Session Laws of Hawaii 1993, to use a portion of the special fund appropriation for highways administration to pay the principal and interest on general obligation bonds.

Act 289 provides for the payment of principal and interest on revenue bonds only. Since the intent of the Legislature during the Regular Session of 1993 was to include mechanisms for the payment of both general obligation and revenue bonds in this budget proviso, Act 289 has been amended accordingly.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. S2-93 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Blair and Holt.

**SCRep. S4-93      (Joint) Education, Labor and Employment and Ways and Means on H.B. No. S3-93**

The purpose of this bill is to make appropriations for collective bargaining cost items in the agreement negotiated with Unit 11, Hawaii Firefighters Association.

Your Committees find that negotiations with certain collective bargaining units were not completed by adjournment of the Regular Session of 1993, and thus appropriations for salary adjustments could not be made at that time. Since adjournment, however, Unit 11 has come to terms with the State and it is appropriate to fund the agreement at this time.

Your Committees on Education, Labor and Employment and Ways and Means are in accord with the intent and purpose of H.B. No. S3-93 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Senators Blair, Holt and Iwase.

**SCRep. S5-93      Consumer Protection on H.B. No. S6-93**

The purpose of this bill is to make amendments to the State's no-fault insurance laws.

In the Regular Session of 1993, the Legislature passed H.B. No. 775, H.D. 1, S.D. 1, C.D. 1 (H.B. No. 775). That bill was vetoed by the Governor for various reasons. This bill remedies the concerns of the Governor.

Like H.B. No. 775, this bill also repeals the current language in section 431:10C-110, Hawaii Revised Statutes, popularly known as the "take all comers provision," and allows insurers annually to nonrenew or conditionally renew two percent of their total policies. It is not the intent of your Committee to require a written rejection of the application prior to placing coverage under the joint underwriting plan. Your Committee believes that this change will encourage new companies to enter the insurance market in Hawaii, thereby increasing the availability of no-fault insurance, promoting competition that should stabilize premium rates, and increasing the availability of homeowner's insurance to the local market. This bill also clarifies that the stated formula is in addition to the provisions of section 431:10C-111(a)(1), (a)(2), and (e), Hawaii Revised Statutes.

Section 431:10C-111, Hawaii Revised Statutes, is being amended to add an anti-discrimination provision to prevent insurers from refusing to continue a no-fault policy based solely upon a person's race, creed, ethnic extraction, age, sex, length of driving experience, marital status, residence, or physical handicap. This amendment makes this section consistent with other provisions in the Hawaii Revised Statutes. Insurers would also be prohibited from refusing to continue a no-fault policy because the insured has elected to obtain any coverage or deductible provided by law.

Section 431:10C-117, Hawaii Revised Statutes, is being amended to allow a judge to suspend the fine for a first time conviction for driving without a no-fault policy and to reduce the minimum fines for driving without a no-fault policy by one-half. Your Committee has left intact the option for a judge to grant community service in lieu of a fine. Provisions for suspension of a motor vehicle owner's or driver's license are left intact, but were nonsubstantively reorganized into another paragraph. Your Committee intends that a reduction or suspension of fines will provide some relief for drivers who are having difficulty obtaining no-fault insurance, especially in the aftermath of Hurricane Iniki.

Section 431:10C-301, Hawaii Revised Statutes, is being amended to clarify that an insurer is required to offer both the option to stack and the option to obtain higher limits of uninsured motorist coverage and underinsured motorist coverage. Your Committee wants to make clear that the consumer may choose one of these options or both. This bill also clarifies that the insured has the option to purchase higher limits up to the maximum amount of bodily injury coverage within the insurance policy. It is the intent of your Committee that an insurer shall offer various limits up to but not exceeding the maximum, and that the insured may choose any of those limits. Your Committee would like to make clear that this bill does not prohibit insurers from voluntarily offering uninsured motorist coverage and underinsured motorist coverage in excess of the insured's bodily injury coverage.

A new subsection (e) is also being added to section 431:10C-301, Hawaii Revised Statutes. It is the intent of your Committee that, if the insured initially rejects the basic uninsured or underinsured motorist coverages in a new policy,

whichever is applicable, then the insurer need not offer the coverages again on any renewal or replacement of the policy and need not offer the optional coverages of stacking and increased limits as to the rejected coverage. Your Committee wants to make clear that the uninsured and underinsured motorist coverages are separate and that the rejection of one does not affect the offering of the other as to the basic coverage and the options relating to that coverage. Your Committee feels this provision will simplify and streamline the insurance application and renewal processes, making it easier for the insured to understand the policy.

Section 431:10C-308.7, Hawaii Revised Statutes, is being amended to prohibit health care providers from engaging in fee splitting. This bill also prohibits a health care provider from referring a patient to another entity in which the health care provider has a financial interest. The Governor's veto message expressed concerns about the meaning of "significant financial interest." Your Committee, upon consideration of those concerns, feels that any financial interest should be disclosed, and is amending the language accordingly.

This bill also provides a section which requires insurers to include savings as a result of Acts 123 and 124, Session Laws of Hawaii 1992, when filing their rates with the insurance commissioner. Your Committee also expects insurers to include any savings from this bill when filing their rates with the insurance commissioner. Your Committee requests the Insurance Commissioner ensure that any savings from this bill are factored into rates prior to approval.

Your Committee on Consumer Protection is in accord with the intent and purpose of H.B. No. S6-93, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. S6-93 (Majority) Legislative Management on S.R. No. S1-93**

The purpose of this Resolution is to reestablish the Senate Special Committee on the Employees' Retirement System (ERS) and Government Procurement with full investigating powers.

The Special Committee was established on December 17, 1992 to review possible violations of state procurement laws and gather information needed to draft new ones. In the course of its investigations, the Special Committee experienced difficulty obtaining specific information and also became aware of issues relating to ERS investment policies and practices. On March 5, 1993, the Senate adopted S.R. No. 35, S.D. 1 investing the Special Committee with investigatory powers under Chapter 21, Hawaii Revised Statutes, and expanding its scope of inquiry to include the ERS, government procurement and public contracts generally, and other matters necessary to ensure that public funds are expended or obligated in a fair, efficient, and equitable manner.

It was the intent of the Senate that the Special Committee would exercise its investigatory powers, including the power of subpoena, continuously from the remainder of the 1993 Regular Session through the 1993-1994 interim until its dissolution on March 1, 1994.

During its investigations, five Administration officials filed suit seeking a declaration that the Special Committee was without authorization to exercise investigatory powers under Chapter 21 because S.R. No. 35 failed to expressly provide that authorization and failed to state the number of members of the Special Committee. Despite the pendency of this suit, the Special Committee has continued its work.

On August 6, 1993, Judge Virginia Crandall held that the Special Committee was authorized to function during the 1993-1994 interim but not as an investigatory committee with power of subpoena.

This Resolution addresses the Judge's findings and reestablishes the Special Committee with full investigatory powers.

Your Committee finds that the problems and issues relating to procurement and the ERS warrant continued attention of the kind authorized by this Resolution.

Your Committee has amended this Resolution as follows:

- (1) Clarified that following its preliminary investigations, the Special Committee concluded that investigative powers would assist in obtaining important information relating to specific government procurement activities;
- (2) Provided for expenditure of the balance of the \$200,000 appropriated for the Special Committee's operating expenses;
- (3) Increased membership on the Special Committee from five to seven;
- (4) Required the Committee to provide by rule for the submission of written questions by counsel for a witness or counsel for a person or entity about whom the witness has given important testimony;
- (5) Required the Committee to provide by rule for the submission of proposed questions at a hearing in accordance with section 21-11(b), Hawaii Revised Statutes;
- (6) Required the Special Committee to provide by rule that each witness be given ten days notice of the date and time of the witness's appearance at the hearing, a short, plain statement of the subject matter of the witness's anticipated testimony, and a list or copies of the principal documents about which the witness may be questioned. However, the Special Committee retains the right to inquire into related matters not specifically set forth in the notice, and the Chairperson may waive the ten day notice requirement with the agreement of the witness;

- (7) Provided for a draft report of the Special Committee to be made available to witnesses, and the person or entities who were subjects of a hearing, with fourteen days to submit responses. Responses will be included as an appendix to the final report; and
- (8) Resolved and clarified that in view of Judge Crandall's ruling, the Senate restates the substance of S.R. No. 35; reaffirms the original intent that the Special Committee have investigatory powers; and enters into the record the process and contents of all written and oral communications relating to the business and activities of the Special Committee since the adoption of S.R. No. 35.

Your Committee on Legislative Management concurs with the intent and purpose of S.R. No. S1-93, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. S1-93, S.D. 1.

Signed by all members of the Committee.  
 Senator George did not concur.

**SCRep. S7-93      Special Committee on the Convention Center on S.B. No. S2-93**

The purpose of this bill is to provide mechanisms for selecting a convention center site and financing the development of a convention center facility.

The bill is drafted in four parts. Generally, Part I deals with site selection, Part II with financing, Part III with the constitutionally required declaration of findings concerning the issuance of general obligation bonds, and Part IV with severability, format, and effective date provisions.

Part I authorizes the convention center authority to negotiate a binding agreement for the purchase of the undeveloped 9.67 acre Aloha Motors site at a price that will enable the convention center to be developed for no more than \$350,000,000, including land acquisition, and development and construction costs. The agreement must be executed prior to midnight on the sixtieth day after the bill is approved. If a binding agreement cannot be executed by this deadline, the Ala Wai Golf Course site will be automatically designated as the convention center site.

If the Ala Wai Golf Course site is designated, the Governor is authorized to transfer that site to the authority and the Kapolei Golf Course to the City and County of Honolulu. Provision is also made for the cleanup of the Ala Wai Canal.

In Part II, the bill establishes the Convention Center Capital and Operations Special Fund and repeals the existing Convention Center Development and Revolving Fund. It provides for an increase in the transient accommodations tax to six percent beginning on July 1, 1994, and changes the disbursement scheme of the tax. After July 1, 1994, one-sixth of the revenues shall be deposited into the Convention Center Capital and Operations Special Fund; of the remainder, five percent shall be retained by the State; and of the remainder, Kauai County shall receive 14.5%, Hawaii County shall receive 18.6%, the City and County of Honolulu shall receive 44.1%, and Maui County shall receive 22.8%.

Part II also authorizes the issuance of \$350,000,000 in general obligation bonds or reimbursable general obligation bonds by the Director of Finance and \$350,000,000 in revenue bonds by the Authority with the approval of the Director of Finance and the Governor, and appropriates moneys from the Convention Center Capital and Operations Special Fund for debt service on the bonds.

The bill also:

- (1) Sets forth general criteria for development of a convention center, including stand-alone, minimum gross square footage, and exhibit and related support space location requirements, and provides that the facility be designed and developed to accommodate future expansion and reflect a Hawaiian sense of place;
- (2) Expands the powers of the Convention Center Authority, including, among other things, authorizing the Authority to: enter into contracts for the professional management, operation and maintenance of the facility; procure insurance against any liability; set and collect rents, fees, charges and other payments for facility lease, use, occupancy, or disposition; acquire lease, own, rent, hold, and dispose of real and personal property; acquire and develop, construct, operate, own, manage, repair, reconstruct, enlarge, or otherwise effectuate, a convention center; and reimburse the state general fund for debt service on general obligation bonds;
- (3) Deletes the Authority's powers to permit ancillary development by a developer; and
- (4) Expands the power of the Authority to establish convention center district rules to include land development and flood plain management, and to apply for flood insurance coverage with respect to the convention center district in the manner that the mayors and the councils of the various counties are currently empowered to apply for flood insurance coverage.

Your Committee observes that the convention center issue has been passionately debated and at times literally fought over since it arose several years ago. Clearly, it has not been an easy issue to deal with or resolve. There have been proponents and opponents, and benefits and detriments, concerning every site that has ever been considered. It has taken time, and patience, and resolve to arrive at a reconciliation of all the varying interests and contentions to the end that the best interest of the State and its people will be furthered to the greatest extent possible. Your Committee believes that this bill provides the best possible solution under the circumstances.

Testimony of the Hawaii Hotel Association reinforces your Committee's belief. The association supports the bill because "it provides the opportunity to develop a convention center that meets the criteria spelled out by the Convention Center Coalition," and the benefits of the increase in the transient accommodations tax "outweigh the economic problems created by a tax increase," even in these difficult times.



Your Committee, on the other hand, is very much aware of the difficulties the transient accommodations tax increase may create for small business. Tour wholesalers, for example, bring a substantial number of visitors to Hawaii each year. Many of them have already established and published their prices for 1994 without the opportunity to factor in the tax increase. Your Committee is sensitive to this problem and is confident that an appropriate solution can be worked out in the future.

Your Special Committee on the Convention Center is in accord with the intent and purpose of S.B. No. S2-93 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. S8-93 (Joint) Ways and Means and Government Operations, Environmental Protection and Hawaiian Programs on S.B. No. S3-93**

The purpose of this bill is to revise, strengthen, and clarify Hawaii's laws governing procurement of goods and services and construction of public works.

Specifically, the bill establishes a new comprehensive code that will:

- (1) Provide for fair and equitable treatment of all persons dealing with the government procurement system;
- (2) Foster broad-based competition among vendors while ensuring accountability, fiscal responsibility, and efficiency in the procurement process; and
- (3) Increase public confidence in the integrity of the system.

Your Committees find that reform of Hawaii's procurement system is sorely needed. The current code is vague, inconsistent, and inefficient, and has been amended more than 200 times since its enactment in 1909. Over the past few years, consultants commissioned to study this piecemeal system, and public procurement experts from other states, have recommended that the Code be updated to centralize the process and provide for increased accountability and efficiency. After careful review of various procurement models and thoughtful discussion and debate, your Committees agreed to use the American Bar Association's (ABA) Model Procurement Code for State and Local Governments as their guide in establishing a comprehensive procurement system for Hawaii.

This bill provides a centralized system of procuring all goods, services, and construction. Under this system, a Procurement Policy Office governed by a five member Board will oversee policies and adopt rules governing purchasing and management practices. The Policy Office Board membership will be appointed by the Governor from a list of names submitted by a nominating committee, and will include the State Comptroller, one county employee with significant high-level procurement experience, and three members of the public who are not employees or contractors with the State or counties. Of the three public members, at least one will be a certified professional in procurement, and at least one should have high-level federal government procurement experience. The qualifications and experience of the Board members will enable them to make informed decisions on matters of procurement policy that will serve the best interest of the people of this State.

To oversee all operational aspects of procurement, an Administrator of the Procurement Office position was established. This individual, appointed by the Governor from a list of names submitted by the Policy Office Board, will be a full-time public official whose sole area of responsibility will be to supervise all procurement activity of the Executive Branch, excluding the Department of Education and the University of Hawaii, to ensure proper administration of procurement laws and rules by State agencies. The administrator will function independently and will have final authority over all procurement operations. While the Judiciary, Legislature, Office of Hawaiian Affairs, University of Hawaii, Department of Education, and the counties will each have their own chief procurement officer to conduct the purchasing activities of their respective jurisdictions, the Administrator of the Procurement Office will be the central person overseeing the purchasing activities of all governmental bodies and the purchasing staff of all State agencies involved in procurement.

The establishment of the Policy Office and an autonomous procurement administrator follows the structure recommended by the ABA and other studies that separates policy and operational procurement functions. It is envisioned by your Committees that this separation of responsibilities will ensure greater accountability and eliminate potential conflicts of interest in the system.

This bill provides for two primary means of source selection -- competitive sealed bidding and competitive sealed proposals -- unless the situation involves sole source contracts, emergency procurements, or small purchases. Under this bill, competitive procedures such as competitive sealed proposals will be the preferred method of selecting professional services unless the Chief Procurement Officer approves the use of procedures involving pre-qualification and screening of persons interested in providing professional services.

It was clear to your Committees that the area of sole source procurement, the center of current controversy and investigation by a special Senate committee, needed to be addressed. This bill allows for the awarding of sole source contracts only after a written determination is made that there is only one source for the required good, service, or construction. The agency requesting the sole source procurement will be required to post a notice of intent to issue such a contract and provides a process for the public to file objections to the award of the contract and the disposition of objections.

In addition, this bill provides for legal and contractual remedies for parties aggrieved over the solicitation or award of a contract. Parties are encouraged to settle any disputes through administrative processes to save time and expense for both parties while preserving all rights and maintaining fairness. A party may challenge the solicitation and awards process, a

debarment or suspension, and a breach of contract. The dispute will be reviewed first by the Chief Procurement Officer of the purchasing agency, and any appeal will be heard by a hearings officer of the Department of Commerce and Consumer Affairs (DCCA). The hearings officer will have the power to subpoena witnesses, hear testimony, find facts, make conclusions of law, and issue written decisions. Any final decision of the DCCA hearings officer may be appealed in the Hawaii Supreme Court. For contract disputes, both the governmental body and the contracting party may proceed in circuit court after the Chief Procurement Officer renders a decision.

Finally, this bill requires the Policy Office to adopt rules that will assist small enterprises in learning how to do business with the State. This will promote fair and broad-based competition among vendors.

Your Committees note that the ABA Model Code is based on the premise of providing basic requirements in the statutes and providing for the adoption of rules by the State and the respective counties to implement the policies established by statute.

This bill lays the foundation and sets the standards for the way government purchases will be made, but allows for flexibility and the use of common sense by purchasing officials to implement the law in a manner that will be economical and efficient and will benefit the people of this State.

Your Committees on Ways and Means and Government Operations, Environmental Protection and Hawaiian Programs are in accord with the intent and purpose of S.B. No. S3-93 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Senators Solomon and Reed.

**SCRep. S9-93 (Joint) Ways and Means and Education, Labor and Employment on H.B. No. S9-93**

The purpose of this bill is to make appropriations for collective bargaining cost items in the agreement negotiated with Unit 9, Hawaii Government Employees' Association.

Your Committees find that negotiations with certain collective bargaining units were not completed by adjournment of the Regular Session of 1993, and thus appropriations for salary adjustments could not be made at that time. Since adjournment, however, Unit 9 has come to terms with the State and it is appropriate to fund the agreement at this time.

Your Committees on Ways and Means and Education, Labor and Employment are in accord with the intent and purpose of H.B. No. S9-93 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Senator Fukunaga.

**SCRep. S10-93 (Joint) Ways and Means and Education, Labor and Employment on H.B. No. S10-93**

The purpose of this bill is to amend Act 299, Session Laws of Hawaii 1993, to provide salary increases and other cost adjustments for state officers and employees excluded from collective bargaining.

Your Committees find that salary increases and other cost adjustments for certain state officers and employees excluded from collective bargaining were not completed by adjournment of the Regular Session of 1993, and thus appropriations for salary adjustments could not be made at that time. Since adjournment, however, terms with the State have been agreed upon and it is appropriate to fund the agreement at this time.

Your Committees on Ways and Means and Education, Labor and Employment are in accord with the intent and purpose of H.B. No. S10-93 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Senator Fukunaga.

**SCRep. S11-93 Special Committee on the Convention Center on H.B. No. S7-93**

The purpose of this bill is to provide mechanisms for selecting a convention center site and financing the development of a convention center facility.

The bill is drafted in four parts. Generally, Part I deals with site selection, Part II with financing, Part III with the constitutionally required declaration of findings concerning the issuance of general obligation bonds, and Part IV with severability, format, and effective date provisions.

Part I authorizes the convention center authority to negotiate a binding agreement for the purchase of the undeveloped 9.67 acre Aloha Motors site at a price that will enable the convention center to be developed for no more than \$350,000,000, including land acquisition, and development and construction costs. The agreement must be executed prior to midnight on the sixtieth day after the bill is approved. If a binding agreement cannot be executed by this deadline, the Ala Wai Golf Course site will be automatically designated as the convention center site.

If the Ala Wai Golf Course site is designated, the Governor is authorized to transfer that site to the authority and the Kapolei Golf Course to the City and County of Honolulu. Provision is also made for the cleanup of the Ala Wai Canal.

In Part II, the bill establishes the Convention Center Capital and Operations Special Fund and repeals the existing Convention Center Development and Revolving Fund. It provides for an increase in the transient accommodations tax to six percent beginning on July 1, 1994, and changes the disbursement scheme of the tax. After July 1, 1994, one-sixth of the revenues shall be deposited into the Convention Center Capital and Operations Special Fund; of the remainder, five

percent shall be retained by the State; and of the remainder, Kauai County shall receive 14.5%, Hawaii County shall receive 18.6%, the City and County of Honolulu shall receive 44.1%, and Maui County shall receive 22.8%.

Part II also authorizes the issuance of \$350,000,000 in general obligation bonds or reimbursable general obligation bonds by the Director of Finance and \$350,000,000 in revenue bonds by the Authority with the approval of the Director of Finance and the Governor, and appropriates moneys from the Convention Center Capital and Operations Special Fund for debt service on the bonds.

The bill also:

- (1) Sets forth general criteria for development of a convention center, including stand-alone, minimum gross square footage, and exhibit and related support space location requirements, and provides that the facility be designed and developed to accommodate future expansion and reflect a Hawaiian sense of place;
- (2) Expands the powers of the Convention Center Authority, including, among other things, authorizing the Authority to: enter into contracts for the professional management, operation and maintenance of the facility; procure insurance against any liability; set and collect rents, fees, charges and other payments for facility lease, use, occupancy, or disposition; acquire lease, own, rent, hold, and dispose of real and personal property; acquire and develop, construct, operate, own, manage, repair, reconstruct, enlarge, or otherwise effectuate, a convention center; and reimburse the state general fund for debt service on general obligation bonds;
- (3) Deletes the Authority's powers to permit ancillary development by a developer; and
- (4) Expands the power of the Authority to establish convention center district rules to include land development and flood plain management, and to apply for flood insurance coverage with respect to the convention center district in the manner that the mayors and the councils of the various counties are currently empowered to apply for flood insurance coverage.

Your Committee observes that the convention center issue has been passionately debated and at times literally fought over since it arose several years ago. Clearly, it has not been an easy issue to deal with or resolve. There have been proponents and opponents, and benefits and detriments, concerning every site that has ever been considered. It has taken time, and patience, and resolve to arrive at a reconciliation of all the varying interests and contentions to the end that the best interest of the State and its people will be furthered to the greatest extent possible. Your Committee believes that this bill provides the best possible solution under the circumstances.

Testimony of the Hawaii Hotel Association reinforces your Committee's belief. The association supports the bill because "it provides the opportunity to develop a convention center that meets the criteria spelled out by the Convention Center Coalition," and the benefits of the increase in the transient accommodations tax "outweigh the economic problems created by a tax increase," even in these difficult times.

Your Committee, on the other hand, is very much aware of the difficulties the transient accommodations tax increase may create for small business. Tour wholesalers, for example, bring a substantial number of visitors to Hawaii each year. Many of them have already established and published their prices for 1994 without the opportunity to factor in the tax increase. Your Committee is sensitive to this problem and is confident that an appropriate solution can be worked out in the future.

Upon further consideration and in regard of the exigency of this matter, your Committee has amended this bill by providing in Section 7 that negotiations, binding agreement, purchase, and sale of the Aloha Motors site shall be exempt from the provisions of Chapter 343 (Environmental Impact Statements), and that the sixty day period allowed in this bill for executing a binding agreement will be suspended during any period in which the negotiations or agreement are enjoined by the court, whether by virtue of Chapter 343 or otherwise. The development plan and subsequent development will remain subject to Chapter 343. Section 32 of the bill has been amended to account for the new tolling provision.

Your Committee has also amended this bill by providing in Section 8 that the cost of the transfer of the Kapolei Golf Course to the City and County of Honolulu and the cleanup of the Ala Wai Canal shall be included in the \$350,000,000 ceiling allowed for the project. Your Committee has added this language to clarify that the expenditure ceiling applies regardless of which site is eventually selected.

Your Special Committee on the Convention Center is in accord with the intent and purpose of H.B. No. S7-93, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. S7-93, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

[illegible]

NUMBER AND TITLE	Offered Referred	Report of Committee	Adoption	Action of House	Subsequent Action
S.C.R. S1-93 REQUESTING A PLAN OF ACTION FOR A MORE EFFICIENT PROCUREMENT SYSTEM.	3 3				

NUMBER AND TITLE	Offered Referred	Report of Committee	Adoption	Action of House	Subsequent Action
S.R. S1-93 AUTHORIZING THE SPECIAL COMMITTEE ON THE EMPLOYEES' RETIREMENT SYSTEM AND GOVERNMENT PROCUREMENT TO EXERCISE INVESTIGATIVE POWERS IN ACCORDANCE WITH CHAPTER 21, HAWAII REVISED STATUTES.	1 1	17	17		
S.R. S2-93 REQUESTING A PLAN OF ACTION FOR A MORE EFFICIENT PROCUREMENT SYSTEM.	3 3				
S.R. S3-93 REAFFIRMING THE SENATE POSITION ON THE CONVENTION CENTER ISSUE AND THE DESIGNATION OF SENATOR MILTON HOLT AS CHIEF SENATE NEGOTIATOR.	17 17				
S.R. S4-93 AUTHORIZING THE PRESIDENT TO APPROVE THE JOURNAL OF THE SENATE FOR THE ELEVENTH DAY OF THE SPECIAL SESSION OF 1993.	33		33		
S.R. S5-93 INFORMING THE HOUSE OF REPRESENTATIVES THAT THE SENATE IS READY TO ADJOURN SINE DIE.	33		33		

NUMBER AND TITLE	Received Referred	First Reading	Second Reading	Third Reading	Action of House	Conference Committee	Final Action	Action of Governor	Further Action	Act No.	Vetoed
H.B. S1-93 A BILL FOR AN ACT RELATING TO STATE BONDS.	8 8	8	15	17				24		1	
H.B. S2-93 A BILL FOR AN ACT RELATING TO THE SPECIAL FUND APPROPRIATION FOR HIGHWAYS ADMINISTRATION.	8 8	8	15	17				24		2	
H.B. S3-93 A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS.	8 8	8	15	17				24		3	
H.B. S6-93 A BILL FOR AN ACT RELATING TO NO-FAULT INSURANCE.	8 8	8	15	17				34		4	
H.B. S7-93 A BILL FOR AN ACT RELATING TO A CONVENTION CENTER.	24 24	24	26	27	35			34		7	
H.B. S8-93 A BILL FOR AN ACT RELATING TO PROCUREMENT.	24 24	24									
H.B. S9-93 A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS.	24 24	24	26	27				34		5	
H.B. S10-93 A BILL FOR AN ACT RELATING TO STATE OFFICERS AND EMPLOYEES EXCLUDED FROM COLLECTIVE BARGAINING AND MAKING APPROPRIATIONS AND OTHER ADJUSTMENTS.	24 24	24	26	27				34		6	