

THIRTIETH DAY

Monday, March 13, 2000

The Senate of the Twentieth Legislature of the State of Hawaii, Regular Session of 2000, convened at 11:36 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by Lieutenant Lisa Smith, Leeward Corps Community Center, Salvation Army, after which the Roll was called showing all Senators present with the exception of Senator Iwase who was excused.

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

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

Senator Matsunaga introduced Dr. Andrew Thomas in recognition of his accomplishments as a NASA Astronaut and one of the last men to work on the Russian space station, Mir.

Senator Tam then introduced Dr. Narendra Saxena, founder of PACON International and a Professor at the School of Ocean and Earth Science and Technology at the University of Hawaii, and commended him for his dedication to sharing his knowledge and experience in order to make the world a better place.

Senator Nakata commended and congratulated The Church of Jesus Christ of Latter-Day Saints on the occasion of its 150th Anniversary of work in Hawaii and introduced the following representatives: Judge Boyd P. Mossman, vice president of the board of the Polynesian Cultural Center; John A. "Jack" Hoag, chairman of the board for Hawaii Reserves Inc.; Lester Moore, president and CEO of the Polynesian Cultural Center; Kumu Hula Olana A'i, Halau Hula Olana; Lacy Chong, Miss Keiki Hula 1999; and Coach Tommy Ka'ulukukui.

At 11:56 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:03 o'clock p.m.

SENATE CONCURRENT RESOLUTIONS

The following concurrent resolutions (S.C.R. Nos. 68 to 89) were read by the Clerk and were referred to committees or deferred:

Senate Concurrent Resolution

No. 68 "SENATE CONCURRENT RESOLUTION REQUESTING THE HAWAII INSTITUTE OF PUBLIC AFFAIRS TO CONDUCT A PUBLIC POLICY REPORT ON HAWAII AND THE NEW ECONOMY."

Offered by: Senators Ihara, D. Ige, Chumbley, Inouye, Levin, Matsunaga, Chun Oakland.

Referred to: Committee on Economic Development, then to the Committee on Ways and Means

No. 69 "SENATE CONCURRENT RESOLUTION REQUESTING A FEASIBILITY STUDY ON ESTABLISHING WATER RESOURCE MANAGEMENT DISTRICTS THAT UTILIZE COMMUNITY-BASED RECOMMENDATIONS TO DEVELOP WATER RESOURCE MANAGEMENT POLICIES."

Offered by: Senator Hanabusa.

Referred to: Committee on Water, Land, and Hawaiian Affairs, then to the Committee on Ways and Means

No. 70 "SENATE CONCURRENT RESOLUTION URGING THE DEVELOPMENT OF INFRASTRUCTURE FOR THE RESIDENTS OF THE MAUNALAHA AREA OF MAKIKI HEIGHTS ON THE ISLAND OF OAHU."

Offered by: Senator Hanabusa.

Referred to: Committee on Water, Land, and Hawaiian Affairs, then to the Committee on Ways and Means

No. 71 "SENATE CONCURRENT RESOLUTION DEVELOPING A STATE WEB SITE ENTITLED 'FOR THE SAKE OF THE CHILDREN' FOR PUBLIC ACCESS INFORMATION PURPOSES."

Offered by: Senators Chun Oakland, Fukunaga, Hanabusa, Inouye, Kawamoto, Levin, Tam.

Referred to: Jointly to the Committee on Judiciary, the Committee on Health and Human Services and the Committee on Education and Technology, then to the Committee on Ways and Means

No. 72 "SENATE CONCURRENT RESOLUTION REQUESTING THE ATTORNEY GENERAL TO REVIEW EXISTING LAWS CONCERNING THE PROTECTION OF ELDERS FROM ABUSE AND FRAUD."

Offered by: Senator Chun Oakland.

Referred to: Committee on Judiciary, then to the Committee on Ways and Means

No. 73 "SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENTS OF HEALTH AND HUMAN SERVICES TO STUDY HOW HAWAII WOULD RESPOND TO AND SUPPORT FEDERAL ACTION TO AMEND MEDICARE BENEFITS TO INCLUDE PRESCRIPTION DRUG ASSISTANCE TO THE ELDERLY AND DISABLED."

Offered by: Senator Chun Oakland.

Referred to: Committee on Health and Human Services, then to the Committee on Ways and Means

No. 74 "SENATE CONCURRENT RESOLUTION REQUESTING ALL EXECUTIVE DEPARTMENTS AND AGENCIES TO SUBMIT REPORTS TO THE LEGISLATURE ON-LINE AND REQUESTING THE DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES TO STUDY OTHER MEANS OF REDUCING PAPER USAGE."

Offered by: Senator Chun Oakland.

Referred to: Committee on Government Operations and Housing, then to the Committee on Ways and Means

No. 75 "SENATE CONCURRENT RESOLUTION SUPPORTING THE EFFORTS OF THE UNITED STATES GOVERNMENT TO FREE THE WOMEN OF AFGHANISTAN FROM THE OPPRESSION OF THE TALIBAN REGIME."

Offered by: Senators Chun Oakland, Buen, Inouye.

Referred to: Committee on Transportation and Intergovernmental Affairs, then to the Committee on Judiciary

No. 76 "SENATE CONCURRENT RESOLUTION SUPPORTING THE EFFORTS OF THE WORLD HEALTH

ORGANIZATION AND WARIS DIRIE TO END THE HARMFUL TRADITION OF FEMALE GENITAL MUTILATION."

Offered by: Senators Chun Oakland, Inouye.

Referred to: Committee on Health and Human Services, then to the Committee on Transportation and Intergovernmental Affairs

No. 77 "SENATE CONCURRENT RESOLUTION ENCOURAGING STATE AGENCIES TO WORK COOPERATIVELY TO ALLOW PUBLIC ACCESS TO HAIKU STAIRS."

Offered by: Senator Nakata.

Referred to: Jointly to the Committee on Water, Land, and Hawaiian Affairs and the Committee on Transportation and Intergovernmental Affairs, then to the Committee on Ways and Means

No. 78 "SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF EDUCATION TO ESTABLISH AN INTEGRATED PEST MANAGEMENT POLICY THAT FOCUSES ON THE LONG-TERM HEALTH OF TEACHERS, STAFF, AND STUDENTS AND PRIORITIZES THE USE OF NONCHEMICAL METHODS OF PEST CONTROL AND REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO CONDUCT A STUDY OF ALTERNATIVE METHODS OF PEST CONTROL FOR COMMON AREAS FREQUENTED BY THE PUBLIC."

Offered by: Senator Nakata.

Referred to: Jointly to the Committee on Education and Technology and the Committee on Labor and Environment, then to the Committee on Ways and Means

No. 79 "SENATE CONCURRENT RESOLUTION REQUESTING AN AUDIT OF STATE MONEYS PAID FOR HEALTH INSURANCE FOR STATE EMPLOYEES."

Offered by: Senator Mizuguchi, by request.

No. 80 "SENATE CONCURRENT RESOLUTION REQUESTING AN AUDIT OF THE CONTRACTING OF LEGAL SERVICES TO REPRESENT THE STATE IN ITS TOBACCO SETTLEMENT AGREEMENT."

Offered by: Senator Hanabusa.

No. 81 "SENATE CONCURRENT RESOLUTION EXPRESSING SUPPORT FOR THE RESPONSIBLE USE OF AGRICULTURAL BIOTECHNOLOGY FOR THE BENEFIT OF THE PEOPLE OF HAWAII."

Offered by: Senators Inouye, Buen, Bunda, M. Ige, Iwase, Slom, Taniguchi.

No. 82 "SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO RESUME FRY/SEED PRODUCTION AT THE ANUENUE FISHERIES RESEARCH CENTER."

Offered by: Senators Inouye, Buen, Bunda, M. Ige, Iwase, Slom, Taniguchi.

No. 83 "SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS TO VERIFY THAT PARI-MUTUEL WAGERING BEING SIMILAR TO STOCK TRADING SHOULD BE PERMITTED IN HAWAII."

Offered by: Senator Tam, by request.

No. 84 "SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS TO ADOPT RULES TO REQUIRE REGISTERED TRAVEL AGENCIES AND REGISTERED CHARTER TOUR OPERATORS TO UNDERGO PERIODIC SEMINARS ABOUT THE FINANCIAL PITFALLS OF THEIR BUSINESS."

Offered by: Senators Kawamoto, Buen, Bunda.

No. 85 "SENATE CONCURRENT RESOLUTION URGING THE DEPARTMENT OF HEALTH TO TRAIN AND CONSULT WITH OPERATORS AND STAFF OF ADULT RESIDENTIAL CARE HOME OPERATORS, AT THE TIME OF LICENSING AND PERIODICALLY THEREAFTER, REGARDING THEIR DUTIES AND RESPONSIBILITIES FOR THEIR RESIDENTS."

Offered by: Senators Kawamoto, Bunda, Chun Oakland, Levin, Matsuura.

No. 86 "SENATE CONCURRENT RESOLUTION REQUESTING THE IMPLEMENTATION OF A SYSTEM-WIDE MASTER PLAN AND AN ACCOMPANYING INFORMATIONAL STUDY, ADDRESSING THE CURRENT AND PROJECTED NEED FOR PRISON FACILITIES IN HAWAII."

Offered by: Senators Kawamoto, Bunda, Chumbley, Fukunaga, Levin, Matsunaga, Matsuura, Sakamoto, Slom, Tam.

No. 87 "SENATE CONCURRENT RESOLUTION STRONGLY URGING THE UNITED STATES DEPARTMENT OF EDUCATION AND THE NATIONAL INSTITUTE OF MENTAL HEALTH TO ENGAGE IN A NATIONAL EXAMINATION OF THE APPROPRIATE USE OF PSYCHIATRIC DRUGS AND THEIR EFFECTS ON CHILDREN."

Offered by: Senators Levin, Chun Oakland.

No. 88 "SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF HEALTH TO IMPROVE STATEWIDE DIABETES AWARENESS AND EDUCATION AND EXAMINE THE POSSIBILITY OF ESTABLISHING A PROGRAM FOR FREE EARLY DETECTION SCREENING FOR DIABETES."

Offered by: Senators Levin, Chun Oakland.

No. 89 "SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO CONVENE A WORK GROUP TO STUDY CONDITIONS AT PUNALU'U BEACH AND THE NEAR-BY KAMEHAME BEACH AND RECOMMEND APPROPRIATE ACTIONS TO PRESERVE AND PROTECT THE AREA'S ENDANGERED SPECIES AND THE ECOSYSTEM."

Offered by: Senator Levin.

SENATE RESOLUTIONS

The following resolutions (S.R. Nos. 26 to 42) were read by the Clerk and were referred to committees or deferred:

Senate Resolution

No. 26 "SENATE RESOLUTION REQUESTING THE HAWAII INSTITUTE OF PUBLIC AFFAIRS TO CONDUCT A PUBLIC POLICY REPORT ON HAWAII AND THE NEW ECONOMY."

Offered by: Senators Ihara, D. Ige, Chumbley, Inouye, Levin, Matsunaga, Chun Oakland.

Referred to: Committee on Economic Development, then to the Committee on Ways and Means

No. 27 "SENATE RESOLUTION DEVELOPING A STATE WEB SITE ENTITLED 'FOR THE SAKE OF THE CHILDREN' FOR PUBLIC ACCESS INFORMATION PURPOSES."

Offered by: Senators Chun Oakland, Fukunaga, Hanabusa, Inouye, Kawamoto, Levin, Tam.

Referred to: Jointly to the Committee on Judiciary, the Committee on Health and Human Services and the Committee on Education and Technology, then to the Committee on Ways and Means

No. 28 "SENATE RESOLUTION REQUESTING THE DEPARTMENTS OF HEALTH AND HUMAN SERVICES TO STUDY HOW HAWAII WOULD RESPOND TO AND SUPPORT FEDERAL ACTION TO AMEND MEDICARE BENEFITS TO INCLUDE PRESCRIPTION DRUG ASSISTANCE TO THE ELDERLY AND DISABLED."

Offered by: Senator Chun Oakland.

Referred to: Committee on Health and Human Services, then to the Committee on Ways and Means

No. 29 "SENATE RESOLUTION SUPPORTING THE EFFORTS OF THE UNITED STATES GOVERNMENT TO FREE THE WOMEN OF AFGHANISTAN FROM THE OPPRESSION OF THE TALIBAN REGIME."

Offered by: Senators Chun Oakland, Buen, Inouye.

Referred to: Committee on Transportation and Intergovernmental Affairs, then to the Committee on Judiciary

No. 30 "SENATE RESOLUTION SUPPORTING THE EFFORTS OF THE WORLD HEALTH ORGANIZATION AND WARIS DIRIE TO END THE HARMFUL TRADITION OF FEMALE GENITAL MUTILATION."

Offered by: Senators Chun Oakland, Inouye.

Referred to: Committee on Health and Human Services, then to the Committee on Transportation and Intergovernmental Affairs

No. 31 "SENATE RESOLUTION ENCOURAGING STATE AGENCIES TO WORK COOPERATIVELY TO ALLOW PUBLIC ACCESS TO HAIKU STAIRS."

Offered by: Senator Nakata.

Referred to: Jointly to the Committee on Water, Land, and Hawaiian Affairs and the Committee on Transportation and Intergovernmental Affairs, then to the Committee on Ways and Means

No. 32 "SENATE RESOLUTION REQUESTING THE DEPARTMENT OF EDUCATION TO ESTABLISH AN INTEGRATED PEST MANAGEMENT POLICY THAT FOCUSES ON THE LONG-TERM HEALTH OF TEACHERS, STAFF, AND STUDENTS AND PRIORITIZES THE USE OF NONCHEMICAL METHODS OF PEST CONTROL AND REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO CONDUCT A STUDY OF ALTERNATIVE METHODS OF PEST CONTROL FOR COMMON AREAS FREQUENTED BY THE PUBLIC."

Offered by: Senator Nakata.

Referred to: Jointly to the Committee on Education and Technology and the Committee on Labor and Environment, then to the Committee on Ways and Means

No. 33 "SENATE RESOLUTION EXPRESSING SUPPORT FOR THE RESPONSIBLE USE OF AGRICULTURAL BIOTECHNOLOGY FOR THE BENEFIT OF THE PEOPLE OF HAWAII."

Offered by: Senators Inouye, Buen, Bunda, M. Ige, Iwase, Slom, Taniguchi.

No. 34 "SENATE RESOLUTION REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO RESUME FRY/SEED PRODUCTION AT THE ANUENUE FISHERIES RESEARCH CENTER."

Offered by: Senators Inouye, Buen, Bunda, M. Ige, Iwase, Slom, Taniguchi.

No. 35 "SENATE RESOLUTION REQUESTING THE DEPARTMENT OF MOTOR VEHICLES TO HELP EDUCATE THE ENGLISH AS SECOND LANGUAGE ETHNIC GROUPS AND PROMOTE COMPLIANCE WITH DEPARTMENT RULES."

Offered by: Senator Tam.

No. 36 "SENATE RESOLUTION REVIEWING INEFFICIENCY OF GOVERNMENT OPERATIONS CAUSED BY DELAYED SERVICES TO STATE AGENCIES AND DEPARTMENTS."

Offered by: Senator Tam.

No. 37 "SENATE RESOLUTION REQUESTING THE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS TO ADOPT RULES TO REQUIRE REGISTERED TRAVEL AGENCIES AND REGISTERED CHARTER TOUR OPERATORS TO UNDERGO PERIODIC SEMINARS ABOUT THE FINANCIAL PITFALLS OF THEIR BUSINESS."

Offered by: Senators Kawamoto, Buen, Bunda, Fukunaga.

No. 38 "SENATE RESOLUTION URGING THE DEPARTMENT OF HEALTH TO TRAIN AND CONSULT WITH OPERATORS AND STAFF OF ADULT RESIDENTIAL CARE HOME OPERATORS, AT THE TIME OF LICENSING AND PERIODICALLY THEREAFTER, REGARDING THEIR DUTIES AND RESPONSIBILITIES FOR THEIR RESIDENTS."

Offered by: Senators Kawamoto, Bunda, Chun Oakland, Levin, Matsuura.

No. 39 "SENATE RESOLUTION REQUESTING THE IMPLEMENTATION OF A SYSTEM-WIDE MASTER PLAN AND AN ACCOMPANYING INFORMATIONAL STUDY, ADDRESSING THE CURRENT AND PROJECTED NEED FOR PRISON FACILITIES IN HAWAII."

Offered by: Senators Kawamoto, Bunda, Chumbley, Levin, Matsunaga, Matsuura, Sakamoto, Slom, Tam.

No. 40 "SENATE RESOLUTION STRONGLY URGING THE UNITED STATES DEPARTMENT OF EDUCATION AND THE NATIONAL INSTITUTE OF MENTAL HEALTH TO ENGAGE IN A NATIONAL EXAMINATION OF THE APPROPRIATE USE OF PSYCHIATRIC DRUGS AND THEIR EFFECTS ON CHILDREN."

Offered by: Senator Levin.

No. 41 "SENATE RESOLUTION REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO DETERMINE THE LIKELY SOCIAL AND ECONOMIC IMPACTS OF SITING A PRISON FACILITY ON THE ISLAND OF HAWAII."

Offered by: Senator Levin.

No. 42 "SENATE RESOLUTION REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO DETERMINE THE LIKELY SOCIAL AND ECONOMIC IMPACTS OF SITING A HOLISTIC HAWAIIAN ALTERNATIVE TO PRISON FACILITY ON THE ISLAND OF HAWAII."

Offered by: Senator Levin.

STANDING COMMITTEE REPORTS

Senator Hanabusa, for the Committee on Water, Land, and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 2787) recommending that the Senate advise and consent to the nominations of MICHAEL N. GOSHI, PATRICK K. KOBAYASHI and LORI ANN C. LUM to the Hawaii Community Development Authority, in accordance with Gov. Msg. No. 158.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 2787 and Gov. Msg. No. 158 was deferred until Tuesday, March 14, 2000.

Senator Hanabusa, for the Committee on Water, Land, and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 2788) recommending that the Senate advise and consent to the nominations of WONDA MAE AGPALSA and MILTON PA to the Hawaiian Homes Commission, in accordance with Gov. Msg. No. 161.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 2788 and Gov. Msg. No. 161 was deferred until Tuesday, March 14, 2000.

Senator Hanabusa, for the Committee on Water, Land, and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 2789) recommending that the Senate advise and consent to the nominations of GEORGE W. MAIOHO and PAUL K. ELIA to the Molokai Irrigation System Water Users Advisory Board, in accordance with Gov. Msg. No. 167.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 2789 and Gov. Msg. No. 167 was deferred until Tuesday, March 14, 2000.

ORDER OF THE DAY

MATTERS DEFERRED FROM THURSDAY, MARCH 9, 2000

REFERRAL OF HOUSE BILLS

The President made the following committee assignments of House bills received on Thursday, March 9, 2000:

- House Bill Referred to:
- No. 2581, H.D. 1 Committee on Government Operations and Housing, then to the Committee on Judiciary
- No. 2582, H.D. 1 Committee on Government Operations and Housing, then to the Committee on Judiciary
- No. 2587, H.D. 1 Committee on Government Operations and Housing, then to the Committee on Judiciary

REFERRAL OF SENATE CONCURRENT RESOLUTIONS

The President made the following committee assignments of concurrent resolutions that were offered on Thursday, March 9, 2000, and Friday, March 10, 2000:

- Senate Concurrent Resolution Referred to:
- No. 51 Committee on Commerce and Consumer Protection, then to the Committee on Judiciary
- No. 52 Committee on Commerce and Consumer Protection, then to the Committee on Ways and Means
- No. 53 Jointly to the Committee on Judiciary and the Committee on Transportation and Intergovernmental Affairs, then to the Committee on Ways and Means
- No. 54 Jointly to the Committee on Judiciary and the Committee on Transportation and Intergovernmental Affairs, then to the Committee on Ways and Means
- No. 55 Jointly to the Committee on Judiciary and the Committee on Health and Human Services, then to the Committee on Ways and Means
- No. 56 Committee on Ways and Means
- No. 57 Committee on Education and Technology, then to the Committee on Ways and Means
- No. 58 Committee on Education and Technology, then to the Committee on Ways and Means
- No. 59 Committee on Education and Technology, then to the Committee on Ways and Means
- No. 60 Committee on Economic Development, then to the Committee on Ways and Means
- No. 61 Jointly to the Committee on Water, Land, and Hawaiian Affairs and the Committee on Government Operations and Housing, then to the Committee on Ways and Means
- No. 62 Jointly to the Committee on Judiciary and the Committee on Water, Land, and Hawaiian Affairs, then to the Committee on Ways and Means
- No. 63 Committee on Judiciary, then to the Committee on Ways and Means
- No. 64 Committee on Economic Development, then to the Committee on Ways and Means
- No. 65 Jointly to the Committee on Education and Technology and the Committee on Ways and Means
- No. 66 Committee on Water, Land, and Hawaiian Affairs, then to the Committee on Judiciary
- No. 67 Committee on Economic Development, then to the Committee on Ways and Means
- Senate Resolution Referred to:
- No. 22 Committee on Commerce and Consumer Protection, then to the Committee on Judiciary

REFERRAL OF SENATE RESOLUTIONS

The President made the following committee assignments of resolutions that were offered on Thursday, March 9, 2000, and Friday March 10, 2000:

No. 23 Committee on Commerce and Consumer Protection, then to the Committee on Ways and Means

No. 24 Committee on Economic Development, then to the Committee on Ways and Means

No. 25 Jointly to the Committee on Water, Land, and Hawaiian Affairs and the Committee on Government Operations and Housing, then to the Committee on Ways and Means

RE-REFERRAL OF HOUSE BILLS

The Chair re-referred the following House bills that were received:

House Bill Referred to:

No. 1762 Committee on Commerce and Consumer Protection, then to the Committee on Judiciary

No. 2536, H.D. 1 Committee on Health and Human Services, then to the Committee on Education and Technology, then to the Committee on Ways and Means

No. 2551, H.D. 1 Jointly to the Committee on Ways and Means and the Committee on Health and Human Services

No. 2736, H.D. 1 Committee on Commerce and Consumer Protection, then to the Committee on Judiciary

Senator M. Ige rose on a point of personal privilege and stated:

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

"Mr. President and fellow Senators, it's with a heavy heart that I rise on this point. I need to say that the subject of my point is someone who I have great respect for, someone whose advice and words I have long relied upon, and he knows that at times when I was at a loss for words, that I have sought his advice, especially when it came to quoting poetry from Lord Tennyson. This person is our colleague, the Senator from Mililani.

"It is ironic that our Senate Rules of Decorum on this chamber floor requires that I address him as the Senator from Mililani. Yet these very same rules do not provide me any guidance as to how we fulfill our advice and consent responsibility when one of our own is nominated and chooses to remain a sitting Senator amongst us.

"Fellow colleagues, the ability to question one of us is especially crucial given the position for which Governor Cayetano has nominated the Senator from Mililani. The Senator from Mililani is to be the chair of the Labor and Industrial Relations Appeals Board. As the vice chairman of the Senate Labor and Environment Committee, I have reviewed the provisions of the Hawaii Revised Statutes, Section 371-4, and its legislative history. What is very clear is that the Legislature, when enacting this statute, referenced that the successor who is appointed must be qualified. Just as critical, the law states that it is declared to be in the public's best interest to continue board members as long as efficiency is demonstrated.

"We can all assume that the governor is aware of the law and has probably conferred with the attorney general. I, however, cannot say that I know my responsibilities and, basically, my responsibility to act upon this advice and consent especially in my role as the vice chairman for the Committee on Labor and Environment, which has been referred this nomination. For these reasons, Mr. President, I am again invoking Senate Rule No. 84 and would like to read the letter to the attorney general as follows:

'I raise the following questions to you as a state officer under Senate Rule 84. The law states that each member of the Labor and Industrial Relations Appeals Board shall hold office until his successor is appointed and qualified. What is meant by qualified? Whose responsibility is it to determine the successor is qualified? May we presume that when the Governor nominated Senator Iwase, that he is qualified?

'The Standing Committee Report of the 1969 Legislature states that the members of the Appeals Board are, quote, "expected to be and should be specialists," end of quote, in the matter of workmen's compensation. What is the criteria for the word specialist? Is the criteria one where fellow attorneys in the legal community consider the nominee to be a specialist in the field? Note that the standing committee report also draws a distinction between a judge, who is not expected to be a specialist in the subject matter of every case that is tried before him, and the member of the Appeals Board, which is expected to be a specialist.

'The law goes on to state and I quote: "Because cumulative experience and continuity in office are essential to the proper handling of appeals under workers' compensation law and other labor laws, it is hereby declared to be in the public interest" -- the public interest -- "to continue board members in office as long as efficiency is demonstrated," end of quote.

'A lay person's reading of this means that unless the board member is inefficient, the board member should continue. Is this correct? The clear language of the statute requires a demonstration of efficiency or inefficiency. Whose responsibility is it to make that determination? Is it required in this advice and consent that the Senate must first determine the sitting Chair, Mr. Frank Yap, to be inefficient because he is not permitted to continue?

'These are critical questions and the responses are necessary to fulfill my advice and consent responsibilities.

'With warm personal regards, I remain

/s/Marshall K. Ige'

"Mr. President, another letter that I'd like to read is to Mr. Yap:

'In accordance with Senate Rule 84, I request a reply to the following questions: (1) Have you asked to be retained by the Governor in your present position as Chair Attorney for the Labor and Industrial Appeals Board? (2) Has any determination been made that you are inefficient as a board member? (3) Prior to your appointment to the position of Chair Attorney to the Labor and Industrial Appeals Board, what were your qualifications for that position? And lastly, (4) In your position as the Chair Attorney for the Labor and Industrial Appeals Board, have you had any negative evaluations that you are aware of?

'With warm personal regards, I remain

/s/Marshall K. Ige'

"Mr. President, I would request a response tomorrow. Thank you."

Senator Slom also rose on a point of personal privilege and said:

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

"This morning the Republican Party of Hawaii instituted legal action against the Senate and the House of Representatives in an effort to reform the Conference Committee procedures. We have all had memos that have transpired in the last several days on this issue. We have been aware of this issue for quite some time. I am sorry that legal action, in fact, is necessary. I think it is something that we all realize that we should be doing in a better fashion and that in fact we can do in a better fashion if we believe in what we're saying about truly open government, open meetings, open voting.

"I do note, Mr. President, that in your memo you did mention specifically the heavy workload of the two Minority members of the Senate, for which I am grateful, but let you be aware that the 100 percent Minority stands by, ready to do anything and everything possible to make sure that there are better procedures followed in Conference.

"And Mr. President, I just want to also mention that in case you are taken into custody, the Republican Minority, we have ponied up \$15 for bail money which we can use. (Laughter.) But I do hope and think that this is something that we can do; we ought to do; and we can do it voluntarily during this Legislative Session.

"Thank you, Mr. President."

ADJOURNMENT

At 12:13 o'clock p.m., on motion by Senator Chun, seconded by Senator Slom and carried, the Senate adjourned until 11:30 o'clock a.m., Tuesday, March 14, 2000.