

## FIFTY-FIFTH DAY

## Tuesday, April 24, 2001

The Senate of the Twenty-First Legislature of the State of Hawaii, Regular Session of 2001, convened at 11:41 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by Father Patrick Freitas, St. Philomena Parish, after which the Roll was called showing all Senators present.

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

## HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 616 to 657) were read by the Clerk and were disposed of as follows:

Hse. Com. No. 616, informing the Senate that the Speaker on April 23, 2001, appointed Representatives Arakaki, Ito, Kawakami, co-chairs, Yonamine, Djou, Stonebraker as managers on the part of the House for the consideration of amendments proposed by the House to S.B. No. 1535, S.D. 2 (H.D. 1), was placed on file.

Hse. Com. No. 617, returning S.B. No. 797, which passed Third Reading in the House of Representatives on April 23, 2001, was placed on file.

Hse. Com. No. 618, returning S.C.R. No. 13, S.D. 2, which was adopted by the House of Representatives on April 23, 2001, was placed on file.

Hse. Com. No. 619, returning S.C.R. No. 20, which was adopted by the House of Representatives on April 23, 2001, was placed on file.

Hse. Com. No. 620, returning S.C.R. No. 24, which was adopted by the House of Representatives on April 23, 2001, was placed on file.

Hse. Com. No. 621, returning S.C.R. No. 34, S.D. 1, which was adopted by the House of Representatives on April 23, 2001, was placed on file.

Hse. Com. No. 622, returning S.C.R. No. 35, S.D. 1, which was adopted by the House of Representatives on April 23, 2001, was placed on file.

Hse. Com. No. 623, returning S.C.R. No. 43, S.D. 1, which was adopted by the House of Representatives on April 23, 2001, was placed on file.

Hse. Com. No. 624, returning S.C.R. No. 92, S.D. 1, which was adopted by the House of Representatives on April 23, 2001, was placed on file.

Hse. Com. No. 625, returning S.C.R. No. 93, which was adopted by the House of Representatives on April 23, 2001, was placed on file.

Hse. Com. No. 626, returning S.C.R. No. 94, which was adopted by the House of Representatives on April 23, 2001, was placed on file.

Hse. Com. No. 627, returning S.C.R. No. 96, S.D. 1, which was adopted by the House of Representatives on April 23, 2001, was placed on file.

Hse. Com. No. 628, returning S.C.R. No. 97, S.D. 2, which was adopted by the House of Representatives on April 23, 2001, was placed on file.

Hse. Com. No. 629, returning S.C.R. No. 107, which was adopted by the House of Representatives on April 23, 2001, was placed on file.

Hse. Com. No. 630, returning S.C.R. No. 120, S.D. 1, which was adopted by the House of Representatives on April 23, 2001, was placed on file.

Hse. Com. No. 631, returning S.C.R. No. 121, which was adopted by the House of Representatives on April 23, 2001, was placed on file.

Hse. Com. No. 632, returning S.C.R. No. 130, which was adopted by the House of Representatives on April 23, 2001, was placed on file.

Hse. Com. No. 633, returning S.C.R. No. 133, S.D. 1, which was adopted by the House of Representatives on April 23, 2001, was placed on file.

Hse. Com. No. 634, returning S.C.R. No. 139, S.D. 1, which was adopted by the House of Representatives on April 23, 2001, was placed on file.

Hse. Com. No. 635, returning S.C.R. No. 146, S.D. 1, which was adopted by the House of Representatives on April 23, 2001, was placed on file.

Hse. Com. No. 636, returning S.C.R. No. 147, S.D. 1, which was adopted by the House of Representatives on April 23, 2001, was placed on file.

Hse. Com. No. 637, returning S.C.R. No. 149, which was adopted by the House of Representatives on April 23, 2001, was placed on file.

Hse. Com. No. 638, returning S.C.R. No. 153, which was adopted by the House of Representatives on April 23, 2001, was placed on file.

Hse. Com. No. 639, returning S.C.R. No. 159, which was adopted by the House of Representatives on April 23, 2001, was placed on file.

Hse. Com. No. 640, returning S.C.R. No. 7, S.D. 1, which was adopted by the House of Representatives on April 23, 2001, in an amended form, was placed on file.

On motion by Senator English, seconded by Senator Hemmings and carried, the Senate disagreed to the amendments proposed by the House to S.C.R. No. 7, S.D. 1, and requested a conference on the subject matter thereof.

Hse. Com. No. 641, returning S.C.R. No. 15, which was adopted by the House of Representatives on April 23, 2001, in an amended form, was placed on file.

On motion by Senator English, seconded by Senator Hemmings and carried, the Senate disagreed to the amendments

Hse. Com. No. 657, informing the Senate that the House reconsidered its actions taken in disagreeing to the amendments made by the Senate to the following House bills and the

amendments proposed by the Senate were agreed to by the House and said bills passed Final Reading in the House of Representatives on April 23, 2001:

H.B. No. 628, S.D. 1; and  
H.B. No. 654, H.D. 1, S.D. 1,

was placed on file.

#### CONFERENCE COMMITTEE REPORT

Senator Chun, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House to S.B. No. 986, S.D. 1, presented a report (Conf. Com. Rep. No. 2) recommending that S.B. No. 986, S.D. 1, H.D. 1, as amended in C.D. 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 2 and S.B. No. 986, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO AQUACULTURE," was deferred for a period of 48 hours.

#### STANDING COMMITTEE REPORTS

Senator Taniguchi, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 1723) recommending that H.B. No. 567 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator English, seconded by Senator Hemmings and carried, the report of the Committee was adopted and H.B. No. 567, entitled: "A BILL FOR AN ACT RELATING TO UNCLAIMED PROPERTY," passed Second Reading and was placed on the calendar for Third Reading on Wednesday, April 25, 2001.

Senator Taniguchi, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 1724) recommending that H.B. No. 715 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator English, seconded by Senator Hemmings and carried, the report of the Committee was adopted and H.B. No. 715, entitled: "A BILL FOR AN ACT RELATING TO THE INTEGRATED TAX INFORMATION MANAGEMENT SYSTEMS ACQUISITION BY THE DEPARTMENT OF TAXATION," passed Second Reading and was placed on the calendar for Third Reading on Wednesday, April 25, 2001.

Senator Taniguchi, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 1725) recommending that H.B. No. 144 pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 1725 and H.B. No. 144, entitled: "A BILL FOR AN ACT RELATING TO KAHOLAWE ISLAND RESERVE," was deferred until Wednesday, April 25, 2001.

Senator Taniguchi, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 1726) recommending that H.B. No. 444, H.D. 1, pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 1726 and H.B. No. 444, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO BURIAL SITES," was deferred until Wednesday, April 25, 2001.

Senator Taniguchi, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 1727) recommending that H.B. No. 505, H.D. 1, pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 1727 and H.B. No. 505, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LANDS," was deferred until Wednesday, April 25, 2001.

Senator Taniguchi, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 1728) recommending that H.B. No. 508 pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 1728 and H.B. No. 508, entitled: "A BILL FOR AN ACT RELATING TO IRRIGATION PROJECTS," was deferred until Wednesday, April 25, 2001.

Senator Taniguchi, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 1729) recommending that H.B. No. 540, H.D. 1, pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 1729 and H.B. No. 540, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII," was deferred until Wednesday, April 25, 2001.

Senator Taniguchi, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 1730) recommending that H.B. No. 544, H.D. 1, pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 1730 and H.B. No. 544, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII," was deferred until Wednesday, April 25, 2001.

Senator Taniguchi, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 1731) recommending that H.B. No. 545 pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 1731 and H.B. No. 545, entitled: "A BILL FOR AN ACT RELATING TO THE RENTAL HOUSING TRUST FUND," was deferred until Wednesday, April 25, 2001.

Senator Taniguchi, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 1732) recommending that H.B. No. 564, H.D. 2, pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 1732 and H.B. No. 564, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," was deferred until Wednesday, April 25, 2001.

Senator Taniguchi, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 1733) recommending that H.B. No. 565, H.D. 1, pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 1733 and H.B. No. 565, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," was deferred until Wednesday, April 25, 2001.

Senator Taniguchi, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 1734) recommending that H.B. No. 611, H.D. 1, pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 1734 and H.B. No. 611, H.D. 1, entitled: "A BILL FOR AN ACT

RELATING TO CONCESSIONS AT PUBLIC LIBRARY FACILITIES," was deferred until Wednesday, April 25, 2001.

Senator Taniguchi, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 1735) recommending that H.B. No. 612, H.D. 1, pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 1735 and H.B. No. 612, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE LIBRARY ENHANCED SERVICES PROGRAM," was deferred until Wednesday, April 25, 2001.

Senator Taniguchi, for the majority of the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 1736) recommending that H.B. No. 647, H.D. 2, pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 1736 and H.B. No. 647, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE DISABILITY AND COMMUNICATION ACCESS BOARD," was deferred until Wednesday, April 25, 2001.

Senator Taniguchi, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 1737) recommending that H.B. No. 670, H.D. 1, pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 1737 and H.B. No. 670, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT SECURITY," was deferred until Wednesday, April 25, 2001.

Senator Taniguchi, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 1738) recommending that H.B. No. 676, H.D. 1, pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 1738 and H.B. No. 676, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO OCCUPATIONAL AND CAREER INFORMATION," was deferred until Wednesday, April 25, 2001.

Senator Taniguchi, for the majority of the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 1739) recommending that H.B. No. 708 pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 1739 and H.B. No. 708, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SAFETY," was deferred until Wednesday, April 25, 2001.

Senator Taniguchi, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 1740) recommending that H.B. No. 869 pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 1740 and H.B. No. 869, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURAL LOANS," was deferred until Wednesday, April 25, 2001.

Senator Taniguchi, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 1741) recommending that H.B. No. 693 pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 1741 and H.B. No. 693, entitled: "A BILL FOR AN ACT RELATING TO THE BUREAU OF CONVEYANCES," was deferred until Wednesday, April 25, 2001.

Senator Kim, for the Committee on Tourism and Intergovernmental Affairs, presented a report (Stand. Com.

Rep. No. 1742) recommending that the Senate advise and consent to the nomination of DAVID H. GLEASON to the Board of Directors, Hawai'i Tourism Authority, in accordance with Gov. Msg. No. 165.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 1742 and Gov. Msg. No. 165 was deferred until Wednesday, April 25, 2001.

Senator Kim, for the Committee on Tourism and Intergovernmental Affairs, presented a report (Stand. Com. Rep. No. 1743) recommending that the Senate advise and consent to the nomination of SHELLY R. COBB to the King Kamehameha Celebration Commission, in accordance with Gov. Msg. No. 169.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 1743 and Gov. Msg. No. 169 was deferred until Wednesday, April 25, 2001.

Senator Nakata, for the Committee on Labor, presented a report (Stand. Com. Rep. No. 1744) recommending that the Senate advise and consent to the nomination of CHAMP S. ONO to the Civil Service Commission, in accordance with Gov. Msg. No. 276.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 1744 and Gov. Msg. No. 276 was deferred until Wednesday, April 25, 2001.

Senator Nakata, for the Committee on Labor, presented a report (Stand. Com. Rep. No. 1745) recommending that the Senate advise and consent to the nominations of GLADYS C. BAISA, MAMO P. CUMMINGS, SUSAN AU DOYLE and ALAN L. GARSON, ED.D., to the Hawai'i Workforce Development Council, in accordance with Gov. Msg. No. 297.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 1745 and Gov. Msg. No. 297 was deferred until Wednesday, April 25, 2001.

Senator Matsuura, for the Committee on Health and Human Services, presented a report (Stand. Com. Rep. No. 1746) recommending that the Senate advise and consent to the nominations of KENNETH C.C. CHANG, MARIE E. KIMMEY, AIA, STERLING KRYSLER, NORMAN F. OLESEN and KRISTINE PAGANO to the Disability and Communication Access Board, in accordance with Gov. Msg. No. 277.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 1746 and Gov. Msg. No. 277 was deferred until Wednesday, April 25, 2001.

Senator Matsuura, for the Committee on Health and Human Services, presented a report (Stand. Com. Rep. No. 1747) recommending that the Senate advise and consent to the nominations of WILLIAM D. O'CONNOR, TERRI FUJII, MARK H. YAMAKAWA, WILLIAM "SPEEDY" BAILEY, LILI BRYAN-CONANT, JESS DAVID CURB, M.D., KATHLEEN DELAHANTY, SUSAN K. FORBES, DR.P.H., JOANNE H. KEALOHA, PETER C. LEWIS, SARAJEAN A. TOKUNAGA and SABRINA R. TOMA to the Statewide Health Coordinating Council, in accordance with Gov. Msg. No. 283.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 1747 and Gov. Msg. No. 283 was deferred until Wednesday, April 25, 2001.

Senator Matsuura, for the Committee on Health and Human Services, presented a report (Stand. Com. Rep. No. 1748) recommending that the Senate advise and consent to the nominations of TERRI FUJII, MARY DIXON, DEBORAH K. MORIKAWA and DONN TAKAKI to the Honolulu Subarea Health Planning Council, in accordance with Gov. Msg. No. 284.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 1748 and Gov. Msg. No. 284 was deferred until Wednesday, April 25, 2001.

Senator Matsuura, for the Committee on Health and Human Services, presented a report (Stand. Com. Rep. No. 1749) recommending that the Senate advise and consent to the nominations of LANCE K. SEGAWA, CREIGHTON LIU, MARY ANN PYUN and BRAD GERALD WHITE to the West Oahu Subarea Health Planning Council, in accordance with Gov. Msg. No. 285.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 1749 and Gov. Msg. No. 285 was deferred until Wednesday, April 25, 2001.

Senator Matsuura, for the Committee on Health and Human Services, presented a report (Stand. Com. Rep. No. 1750) recommending that the Senate advise and consent to the nominations of BARBARA J. PENNIAL and JULIA E. THORNTON to the Windward Oahu Subarea Health Planning Council, in accordance with Gov. Msg. No. 286.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 1750 and Gov. Msg. No. 286 was deferred until Wednesday, April 25, 2001.

Senator Matsuura, for the Committee on Health and Human Services, presented a report (Stand. Com. Rep. No. 1751) recommending that the Senate advise and consent to the nominations of LESLIE SOOK-HEE CHOW, WAYNE S. HIGAKI, KERRY A.K. INOUE, LESTER M. INOUE, KARLSON PUNG and JULIETTE M. TULANG to the Hawai'i County Subarea Health Planning Council, in accordance with Gov. Msg. No. 287.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 1751 and Gov. Msg. No. 287 was deferred until Wednesday, April 25, 2001.

Senator Matsuura, for the Committee on Health and Human Services, presented a report (Stand. Com. Rep. No. 1752) recommending that the Senate advise and consent to the nominations of ELDRED KAGAWA, ALAN R. KIMURA, ZACHARY OCTAVIO, TRINIDAD RAVAL, THOMAS W. RITA, MAXINE M. CORREA and KATHERINE H.J. GOO to the Kauai County Subarea Health Planning Council, in accordance with Gov. Msg. No. 288.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 1752 and Gov. Msg. No. 288 was deferred until Wednesday, April 25, 2001.

Senator Matsuura, for the Committee on Health and Human Services, presented a report (Stand. Com. Rep. No. 1753) recommending that the Senate advise and consent to the nominations of WILLIAM F. STATON, THOMAS R. FITZGERALD, JR., and PATRICIA MARY RAFFETTO to the Maui County Subarea Health Planning Council, in accordance with Gov. Msg. No. 289.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 1753 and Gov. Msg. No. 289 was deferred until Wednesday, April 25, 2001.

Senator Matsuura, for the Committee on Health and Human Services, presented a report (Stand. Com. Rep. No. 1754) recommending that the Senate advise and consent to the nominations of ORALIE DELGADO CARTER, ANN COLLINS, THOMAS G. NELSON, KIYOKO K. NITZ, PH.D., PAUL K. HIGA, LANI L. BARTHOLOMEW, PATRICIA HEU, M.D., CINDY OGATA, MARK F. ROMOSER and MARK YASUO YABUI to the State Planning Council on Developmental Disabilities, in accordance with Gov. Msg. No. 304.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 1754 and Gov. Msg. No. 304 was deferred until Wednesday, April 25, 2001.

Senator Buen, for the Committee on Agriculture, presented a report (Stand. Com. Rep. No. 1755) recommending that the Senate advise and consent to the nominations of CARLTON L. AGENA, CLYDE M. FUJIKAWA and CARL T. MASAKI to the Advisory Committee on Pesticides, in accordance with Gov. Msg. No. 268.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 1755 and Gov. Msg. No. 268 was deferred until Wednesday, April 25, 2001.

## ORDER OF THE DAY

### ADOPTION OF RESOLUTION

#### MATTER DEFERRED FROM MONDAY, APRIL 23, 2001

S.R. No. 104:

Senator Ihara moved that S.R. No. 104 be adopted, seconded by Senator Chun Oakland.

Senator Ihara rose in support of the measure and said:

"Mr. President, I rise in support of S.R. No. 104.

"Mr. President, S.R. No. 104 seeks to amend the Rules of the Senate. If adopted, it would nullify any Conference procedure that adds or detracts from Senate Rule 23 (3), which requires only a majority vote to report a bill from a Conference Committee. Adoption of this resolution would, in effect, repeal the Conference procedures amendment of April 12 that gives a single Chair veto power over legislation even when all other Committee members support the bill.

"Why is it important to repeal the new Conference Chair veto rule? Because this Chair veto power is two giant steps backwards from the open legislative reforms instituted in recent Sessions. Giant step backward number one is the return to the decades-old political chieftain system that existed before 1997 almost exclusively in the Senate. In this system, Majority Senators acted as king or queen of the committee they chaired. Each chair had single and ultimate authority in their committee jurisdictions because all the chairs agreed and benefited from this set up. But the 'chair is god' system, along with bizarre public behavior ended abruptly in 1997 when a power sharing system of co-chairs was installed. This power sharing system worked best when chairs collaborated because no longer could a single chair act alone. The new conference chair veto power rule or procedure, as it's called, would reverse this direction. Rather than power sharing politics, it would return chairs to the

exalted status of having life or death super powers over legislation. This we should not do.

"Giant step backwards number two is a giant step backwards from the pro-democracy reforms achieved only last Session in Conference Committees and only after a fight to make it happen. This was in the 2000 Legislative Session. Incredibly, it took 15 years for the State House to conduct its committee decision-making in public while the Senate started even later in 1995 finally bringing the Legislature in compliance with a 1978 adopted open voting requirement in our Hawaii State Constitution. Last Session, after four months of public outcry and a lawsuit, Conference Committees were finally required to vote in public – 22 years late.

"I believe that legislative leaders last Session opposed open voting in Conference Committees because it increased the risk of chairs being outvoted by their committees, which they had to do for the first time last Session. For example, last Session, the Senator from Palolo chaired a Conference Committee on S.B. No. 2311, the 'Tanya bill,' and was outvoted in public by his Senate conferees. The bill decked, was adopted on the Senate Floor, and we all accepted this return to democracy.

"Two years prior in 1998, however, Conference Committees made decisions in secret, casting their votes by signing a committee report, never voting in public. Back then, which is recent past, the Chair could simply hold the committee report, not circulate it, and therefore single-handedly kill a bill – not so anymore with last year's reforms . . . or so we thought.

"The recent procedural amendment restores the veto power that Conference Chairs once had before the recent reforms. This reversal could lead to situations, for example, in a ten member Conference Committee (five House and five Senate conferees), with all five House members voting aye along with four of the five Senate conferees, with a lone Senate Chair voting no, after the vote on such a measure, an announcement would then have to be made to the public that the measure had failed. Mr. President, I don't think this qualifies for democracy.

"Mr. President and Senators, please don't let this retreat from democracy be what the public remembers us for having accomplished this Session. I urge all my colleagues to vote in favor of this resolution.

"Thank you."

Senator Chun Oakland rose in support of the resolution and said:

"Mr. President, I also stand in support of this resolution.

"The present rule in question is one of a series of legislative reforms successfully implemented over the past decade to create a more open accountable government in Hawaii – one that fosters sharing of power and responsibility among members of the Senate and House of Representatives. Even with the tremendous resistance, we patiently but vigilantly have made progress over the years and there is still much to be done.

"I've been in the Legislature for now almost 11 years, so I'm speaking from that perspective. There were many barriers back then that made it very difficult for the public to meaningfully participate in the legislative process. In the 1980s as a legislative staff member and a person in the public, it was very frustrating to have been a part of many democratic processes in public and in the community, only to view firsthand a very closed state legislative process.

"I have had a deep commitment, personally, to support and make changes that would make the legislative process more public friendly. In the past, bills that the public wanted heard could be held by the Chair without a hearing, with no recourse. We now have adopted, in 1993 in the House and in the Senate, a rule where a majority of Committee members can formally request a Chairperson to schedule a bill and that the bill must be scheduled for hearing. In 1993 and 1995 we also adopted a rule in the House and Senate respectively that requires a quorum of Committee members to be present at any decision-making on a bill or resolution so that the public would be able to know firsthand how their elected Senators and Representatives vote on various issues.

"There have been discussions in the past to even require a majority of Committee members present at public hearings, since too often the public sees very few Legislators at these Committees when they have taken time off to be present. But there is still a lot of resistance, at least in the past, and it is due in part to some practical realities of our four-month Legislative Session.

"Another area of concern was having ample public notice for hearings so that people would meaningfully participate in the hearing process. From a required 48-hour notice, we have increased it to 72-hours or 3-days notice – still probably too little for the public to meaningfully participate, but we also had to acknowledge and compromise on this by balancing the time constraints of the Legislature to do the people's business. The Committee hearing notices, which once only had the bill or resolution number and title, now (by rules adopted in '93 in the House and I believe it was '97 in the Senate) require a short description of the bill so that people in the public would have some idea of what the bills are about.

"It seems pretty simple, but it makes a whole difference to the public. We still have much to do. I think even the Order of the Day is still not user-friendly for the public, but that will be for another day.

"In the past decade, we have also attempted to increase the opportunities for the public to know what is going on in the Legislature, especially since many people work during times when we have public hearings. We've done this through the public access room, which is well utilized now; cable coverage of many but not all legislative hearings and briefings; and facsimile machines that allow people to get notices in a more timely manner as well as be able to provide testimony for hearings and briefings when they are not able to come to the Legislature at the State Capitol.

"Most recently, this year opening up the budget worksheets to the public has been a phenomenal accomplishment. I, many Legislators, and the public are very happy to finally achieve this after, at least for myself, a decade-long effort to make things more public and understandable. I need to thank the Senate leadership as well as the House leadership for this.

"Finally, in 2000 the agreement was reached between the House and Senate to adopt rules that required open voting at Conference meetings and a majority of Conference Committee members to vote in the affirmative to pass out a measure. Again, the reason for the change was to work towards a more open and accountable legislative process – one that shared power among all of us. The agreement recently made between the Senate President and House Speaker, whether intended or not, basically brings us back to the pre-2000 period where one Conference Chair could basically override the wishes of the majority of conferees and kill bills where the managers of the Conference and other Chair's votes would not matter again.

"There are other loopholes that need to be addressed to better assure that one Chair cannot override the majority and our efforts have to continue to encourage responsibility among all of us. Please do not eliminate one reform that has taken almost a decade to put in place.

"I urge all of you to keep up the momentum of positive legislative reform and to support this resolution. Mr. President, thank you for the time. I do hope that we have a Roll Call vote on this matter. Thank you."

Senator Matsunaga rose in support of the measure and said:

"Mr. President, I rise in support of S.R. No. 104.

"First, may I ask that the eloquent words of the Senators from Kaimuki and Liliha be entered into the Journal as if they were my own.

"Mr. President, as a member of this august body for the past nine years, I'm very, very proud of the pro-democracy strides that we have made. We have evolved from the 'chair is god' system to the system that we had last year – a system where Conference Committees voted openly in public and where Conference Committee votes actually had some meaning.

"This new amendment of April 12<sup>th</sup> that the Senator from Kaimuki spoke of is not a moment we in this body should be proud of. It is a step backwards, limiting participation from committee members. Rather than allowing members to give input stimulating discussion on content, it is mimicking a tyrannical style of governing that is simply inconsistent with the openness and democracy that we have sought to achieve here in the Senate.

"So why are we doing this? This seems to be one of those unanswerable questions that we ponder – like, why don't you ever see the headline 'Psychic wins lottery?' Or why is it necessary to nail down the lid on a coffin? Or why is lemon juice made with artificial flavor and dish washing liquid made with real lemons? I don't think we have the answer to any of those questions today, Mr. President. But, Mr. President, we should at least be honest with ourselves, honest in our rules, and change the name of the Conference Committee Chair to Conference Committee Czar, because that is basically what it is.

"Mr. President, finally, to change the rules in the middle of this game is simply unfair, unjust, and unnecessary, and I urge all my colleagues to vote 'yes' on this resolution.

"Thank you, Mr. President."

Senator Chun rose in opposition to the resolution and said:

"Mr. President, I rise in opposition to the resolution.

"Mr. President, I agree with a lot of the eloquent words of my fellow colleagues over here but today is not the day that we're going to talk about open meeting. This resolution has nothing to do with open meeting. There is still going to be open meetings and we support that wholeheartedly. There will be open voting and we support that wholeheartedly.

"There is a requirement that a Chair cannot veto a Conference Committee by not signing the report, and that has not changed by the President's statements or the conference committee report.

"What we're talking about here, members, is the prior concurrence rule. We're talking about, really, form over substance. By this resolution, we're elevating form over the

real substance of what we're talking about. Because, Mr. President and members, the real substance of what we're talking about is the fact – Does a Chair have the opportunity or the authority, depending on which side you stand on, to stop a bill at any time? That provision, though, Mr. President, is not contained in Rule 23 because Rule 23 just talks about the physical act of signing a report. That, Mr. Chair, is talked about in Rule 17, which is a written rule adopted by this body this year in the beginning of our Session. That, as we all know, is called the prior concurrence rule and that is contained in Rule 17 (2).

"By adopting that prior concurrence rule, we're stating in writing that a Chair of basically any subsequent committee, Conference Committee included, cannot override or change a bill without the prior concurrence of the prior Chair. What the Conference Committee recognizes in that, and through your agreement, is the fact that the Conference Committee cannot override or change a bill that a prior Chair has done. That, in essence of whether you call it a veto, or call it a change, or call it any kind of magical czar doesn't alter the fact that we do have a rule there.

"That's the rule, Mr. President, we should talk about, not about signing a report under Rule 23. We should talk about do we want prior concurrence? Yes or no? Do we want to do away with prior concurrence and just let the last Chair make any changes they want? If that's the case, then we'll just get rid of subject matter Chairs and just have WAM or Judiciary or CPH. But we're not talking about that.

"We now, at this point in time, have recognized prior concurrence in our Rules. For us to change that in Conference would basically ignore all the work of your subject matter Chairs in the previous years. Two-thirds of the work that we've done is completed by the subject matter Chairs. This resolution would say we forget about all that and a Conference Committee can overrule all the work you've done. Do we really want that? I don't think so.

"I think those are very good issues that we should talk about, but let's talk about it in terms of the whole system and not just the Conference Committee. Because if we're going to change prior concurrence, we shouldn't change it just in Conference. We should change it also from the beginning of Session so everybody knows what the rules are from day 1 to day 90. We shouldn't be changing our rules in the middle of the game. I agree with the statement made by the Honorable Senator that we should not be changing the rules. This resolution would do that.

"We need to elevate substance, not form. We need to be consistent with our rules both during the Session and in Conference, and we need to work on these rules just like we worked on, Mr. Chair, in caucus in the beginning of this Session. We worked on these rules. These rules were not dictated solely by the President or by leadership. These rules were worked on by all the members of the Majority. We made some changes based upon some of the comments by the members of the Majority. Also, I believe some of the members of the Minority had some comments in there too. We worked on these hard. For the first time, these rules were openly discussed and not handed down. These rules were amended to take care of some of the discussions.

"We anticipate that we will have other discussions and other changes to these rules, but we shouldn't do it in the middle of the game. We're open to doing it next year before the beginning of Session. I welcome that because we welcome the real substance of prior concurrence. We need to talk about that, but it needs to be talked about from the very beginning in

regards to the entire set of our rules, not just in Conference but the entire Session.

"So, Mr. President, based upon those grounds, I respectfully would vote 'no' against this resolution not because I don't think it has merit, but I think the timing is wrong. I believe it would be changing our rules in the middle of the stream, and I think it would be setting a dangerous precedent by basically cutting out all the work that has been done by our prior chairs in favor of the Conference Committees. I don't believe that has been done and I don't believe we want to do that now.

"Thank you, Mr. President."

Senator Ige rose to speak in support of the resolution and said:

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

"Mr. President, I just wanted to respond to the previous speaker. Our rule on prior concurrence reads as such: 'On bills that have been referred to more than one committee, unless otherwise ordered by the Senate, the subsequent referral committee shall make no substantive change, except changes which affect the subject matter over which the subsequent referral committee has primary jurisdiction, without prior written approval of the preceding referral committee chair having primary jurisdiction over the subject matter affected by the change.'

"Prior concurrence only refers to a veto authority within the jurisdiction of the committee. It does not allow previous Chairs to have veto authority over the entire substance of a measure. This rule proposal that is contained in S.R. No. 104 is totally consistent with the existing language on prior concurrence, and prior concurrence in Rule 17 (2) has a provision where the majority of the Senate can overrule the wishes of any of the committees involved.

"So I strongly urge all of my colleagues to vote in support of this resolution."

Senator Hanabusa rose in opposition to the measure and said:

"Mr. President, I rise in opposition to the resolution.

"Mr. President and colleagues, like my good Senator from Kauai, this is really more an issue of a matter of time and open discussion as to what our procedures are going to be.

"I rise in opposition to the resolution itself and the assumptions that are made therein. Arguably, one may say that it really may be more in the nature of a point of order. But to have raised a point of order at this point in time would have been viewed as silencing debate, which is not what this body is about or what this leadership is about. Leadership has always encouraged open debate, and this debate is a good debate.

"However, let's look at what the Senate resolution is premised upon. The whereas admits that the House and Senate leadership traditionally and as a matter of practice have agreed to joint written procedures which is at issue here. These are joint written procedures that govern our present situation, which is the conferencing. But what does that tell us? That tells us that it is a written procedure that comes at this stage of the whole process. It does not tell us that it is a Senate Rule.

"The concern over the openness that we've heard, the concern over the retreat from democracy, per se, these are issues that should have been incorporated in our Senate Rules because we know that at this stage of the proceedings we have

traditionally, and as a matter of practice, entered into the kinds of written procedures that we have. We also know these written procedures have been left to various persons in leadership. In the past, they have been the Majority Leader. This year it was the President and the Speaker of the House.

"Let's also look at the other premise that this resolution is based on. It is that there is a conflict of Senate Rule 23 (3) with the procedure. What that means, Mr. President and my colleagues, is that we must first make a decision as to whether there is a conflict. Rule 23, subsection 3, basically states, as in the second page of this resolution, that 'A Conference Committee shall not report upon the matter referred unless a majority of the members appointed by the President have concurred in the report.' That's what it says. It doesn't say that it is only the majority. It doesn't say that it can't be modified in any way to say that Conference Chairs must not be required to agree. It doesn't say any of that. It simply says that in order for a report to come out, you must have the majority.

"So, for us to vote on this resolution, this is what we must concur with. We must concur first that there is a conflict. Mr. President, I don't see that conflict. I don't see that conflict in the rules. Therefore, this resolution, which is based upon that, I believe, should fail. Because for us, what we would have to do first is to find that conflict. I would impress upon you, Mr. President, as well as my colleagues, that it does not exist.

"The issues that are raised, the arguments that we've heard today are very important. It may be the next steps that we would have to consider in terms of incorporating it into the Senate Rules now that we've had this issue raised. But this is in the middle of the game. We have all conferenced. We have almost . . . my good Chair of WAM from Manoa keeps telling us 'We may close tonight. We may close tonight.' How much closer can we be? But to now say that what the Senate President and the Speaker of the House have agreed to is in violation of a rule, what does that do to us procedurally? Do we go into extended Session to undo everything if we have this situation? Is there something wrong with the decisions that the Chairs may or may not have made?

"Remember, this is just one aspect. There are other ways that matters may not come before us. For example, there may not be conferees named, which means that bill will not be conferenced. Chairs can still not agree to conference. That's still permissible. Or they can agree not to show up. Or they can just not show up and then what happens to the bill? This is just one of the problems that we may be faced with, but those are not before us today.

"Mr. President, what is before us is this resolution based upon the assumptions that I've said. It concedes that it has been the tradition and practice for the leadership to determine what will happen. If that is not what we wish, then colleagues, we have to amend the rules to prevent that. But the rule that is being sought to be amended here is only 23, subsection 3, and that I do not see a conflict with. That is something that I cannot agree with this resolution about because this resolution is based on that premise.

"Thank you, Mr. President."

Senator Chumbley rose in support of the resolution and said:

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

"The previous speaker very eloquently talked about some of the issues of form over substance in the actual writing of this proposed amendment. I want to concentrate on the principles of what is going on if this resolution is not adopted.



"Recently, a Legislator held a meeting, and in that public meeting the Legislator was heard to say that under the Rules of the Senate or the House, the Conference Committee needs his or her signature on the bill for it to pass. He or she wasn't going to sign off unless the bill included the stuff he or she wanted. That's the principle that we're talking about.

"What we're talking about is that the fundamental principle of the majority rules is being abused with this change in the policy. This resolution, if adopted, would help resolve that issue. If it's not adopted, why have committees? Why have Conference at all? Just have the czar, the chair czar that makes all the decisions. I don't think any of us want to be in that position.

"Those of you who are Chairs this year, you've got a lot of power. Those of you who are not, who have been Chairs in the past, we're just bench players – we fill space, that's all we do. I don't think that's what the public sent us here to do.

"I encourage all of you to support this resolution. Thank you."

At 12:15 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:25 o'clock p.m.

Senator Ihara rose again in support of the resolution and said:

"Mr. President, I have some final remarks in support of this resolution.

"One of the previous speakers mentioned the prior concurrence rule, rule 17. I know some would want it, and wish it, and might even will it, but this rule does not apply to Conference Committees. I should note that Conference procedures have been adopted in the past which handled administrative and logistical procedures for Conference Committees because there is no authority in the Senate Rules that gives the President authority to adopt Conference procedures.

"In the past, Conference procedures were consistent with both Mason's and Senate Rules. I object to the use of Conference procedures to alter the power relationships amongst the Senators. I believe that if this is done, it should have been done in a rule.

"The only reason this vote is being taken today is because it was just a few short days ago that for the first time in the history of the Senate there is an attempt to put in a rule, or the effect of a rule. This is not an advisory matter; this is a binding matter. For the first time in the history of the Senate, at least in the last two decades, there is an attempt to make as a rule to give the power of the Chair, making the Chair czar.

"In the past, a rule was not necessary. It was done because the 'Senate Club' could maintain its internal control. But because we are in a climate where the public has higher expectations, as we discussed previously, many, many reforms have taken place in the last few years, and this type of power concentration is no longer acceptable. I believe that we should not let today be the first time that we let this happen.

"Thank you."

Senator Chun rose in response and said:

"Mr. President, I rise in response to the comments made by the Honorable Senator from Kaimuki.

"Mr. President, first, there is nothing in Rule 17 which limits its applicability. Rule 17 regards subsequent referrals and makes it clear that it's included in all subsequent referral committees including Conference Committees. There is no limiting language in that rule.

"Secondly, it's interesting to note the resolution itself states that it is a prior practice of the Senate Chair and the Senate President and the House Speaker to do these rules, yet there is a statement in there also or has here today that these rules are unlawful under Senate Rules. However, I want to expressly note that the Senate Rules, specifically Rule 86, mentions that prior usage and custom is adopted as stated in Mason's Manual of Legislative Procedure. Rule 86 says Mason's Manual of Legislative Procedure, 2000 edition, which was an amendment made by the Honorable Senator from Maui and Kauai, is adopted when the rules are silent. Mason's Manual, specifically in sections 38 and 39, specifically adopts prior usage and custom.

"So I would say, by our own actions and by our own rules, if it was a prior custom and usage of the Senate President and the House Speaker to adopt Conference Committee procedures and rules, we need to honor that because that's recognized in our own Senate Rules.

"But I don't even want to belabor that point because the bottom line question is what I said before – let's not elevate form over substance. The form is whatever rule we're talking about. The substance is the question, Do we allow any Chairman to veto a bill in Conference whether they veto it by voting no, whether they veto it by not showing up, whether they veto it by not signing the committee report? There are many ways that we've been told that a committee Chair can kill the bill. By this resolution, we're only adopting one – the vote. What's going to happen? If we talk about open government, if we really want open government, this will do the opposite, because what happens if you're going to say, 'Well, you're going to have to vote out there.' The committee Chairs are going to say, 'Well, I'm going to use the other alternative – I'm not going to sign the committee report or I'm not going to show up.' That effectively kills the bill. Is that going to help the public understand what's going on? No.

"That's why I think what we should do is address the main issue and how that issue applies to all our rules, not just one. This matter doesn't do that. This should be taken up at a later time and let's continue with our business, Mr. President.

"Thank you."

Senator Hemmings rose to speak against the measure and stated:

"Mr. President, I rise to speak against the resolution.

"Mr. President, being a member of the Minority Party, this resolution presents a tremendous paradox. On one hand we, for years, have been advocating more openness in government, more decision making with the Majority Party, but this is really a battle between perception and substance. I think the promise I made myself years ago when I got involved in this wonderful world of politics is I would not let myself succumb to perception at the expense of substance – that is not to try to look good while doing something without substance or validity.

"I don't know what is happening in the House concerning for instance an issue such as budget worksheets, but I do know

what's happened in the Senate. I do know that under your leadership and under the leadership of the Senate Ways and Means Committee for the first time I think in the State of Hawaii, I, as a Committee member, regardless of my political affiliation, could walk out of the Finance Committee meeting with the budget worksheets. It's been a tremendous help to me and to my constituents in the Koolaupoko district.

"This is substance, Mr. President, my colleagues. This is something that has made a difference in my constituents' lives because now they know what's not getting funded, but it's information, Mr. President. So I could easily fall into the trap of going with the perception of what's going on, but in speaking against this resolution, I'm speaking in favor of substance. Quite frankly, putting aside the partisan labels, I'm proud of what this Senate has been doing this Session and I think we're continuing down the path of open government and open decision making. If I was to side with what appears to be politically convenient, I might go along with the perception.

"I'm asking members of this body to please examine your conscience and ask what you're really doing here. Are you playing into the hands of perception or are you going with substance? Mr. President, I'm going to stick with substance and I'm voting 'no' against this resolution. I believe what the Co-Majority Leader has said regarding ways that bills can be killed is very true and that this effort is more a matter of perception than substance.

"Thank you, Mr. President."

The motion was put by the Chair and, Roll Call vote having been requested, S.R. No. 104, entitled: "SENATE RESOLUTION AMENDING THE RULES OF THE SENATE OF THE TWENTY-FIRST LEGISLATURE OF THE STATE OF HAWAII, 2001-2002," failed to be adopted on the following showing of Ayes and Noes:

Ayes, 7. Noes, 18 (Buen, Bunda, Chun, English, Hanabusa, Hemmings, Inouye, Kanno, Kawamoto, Kim, Kokubun, Matsuura, Menor, Nakata, Sakamoto, Slom, Tam, Taniguchi).

#### ADVISE AND CONSENT

Stand. Com. Rep. No. 1722 (Gov. Msg. No. 254):

Senator Chun moved that Stand. Com. Rep. No. 1722 be received and placed on file, seconded by Senator Kokubun and carried.

Senator Chun then moved that the Senate advise and consent to the nominations of COLETTE P. MACHADO and CRAIG NEFF to the Kaho'olawe Island Reserve Commission, terms to expire June 30, 2005, seconded by Senator Kokubun.

The motion was put by the Chair and carried on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

#### RECONSIDERATION OF ACTIONS TAKEN

S.B. No. 1050, S.D. 1 (H.D. 1):

Senator Hanabusa moved that the Senate reconsider its action taken on April 12, 2001, in disagreeing to the amendments proposed by the House to S.B. No. 1050, S.D. 1, seconded by Senator Chun and carried.

In accordance with the Conference Committee Procedures agreed upon by the Senate and the House of Representatives,

the managers on the part of the Senate recommended that the Senate agree to the amendments proposed by the House to S.B. No. 1050, S.D. 1, on the following showing of Ayes and Noes:

Ayes, 3 (Hanabusa, Buen, Chun). Noes, none. Excused, 2 (Kim, Hemmings).

Senator Hanabusa moved that the Senate agree to the amendments proposed by the House to S.B. No. 1050, S.D. 1, seconded by Senator Chun.

Senator Hanabusa noted:

"Mr. President, S.B. No. 1050, S.D. 1, is the drop dead provision for special purpose revenue bonds. Originally when the Governor sent his bill down, he asked for three years. The Senate version was seven and the House is five. We're asking that the Senate agree to the five and that's why we're asking to reconsider our action."

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 1050, S.D. 1, and S.B. No. 1050, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE AUTHORIZATION OF SPECIAL PURPOSE REVENUE BONDS," was placed on the calendar for Final Reading on Tuesday, May 1, 2001.

S.B. No. 64, S.D. 1 (H.D. 1):

Senator Kanno moved that the Senate reconsider its action taken on April 12, 2001, in disagreeing to the amendments proposed by the House to S.B. No. 64, S.D. 1, seconded by Senator Matsuura and carried.

In accordance with the Conference Committee Procedures agreed upon by the Senate and the House of Representatives, the managers on the part of the Senate recommended that the Senate agree to the amendments proposed by the House to S.B. No. 64, S.D. 1, on the following showing of Ayes and Noes:

Ayes, 3 (Kanno, Matsuura, Slom). Noes, none. Excused, 1, (Ihara).

Senator Kanno moved that the Senate agree to the amendments proposed by the House to S.B. No. 64, S.D. 1, seconded by Senator Matsuura.

Senator Kanno noted:

"Mr. President, S.B. No. 64 creates the offense of interference with the reporting of an emergency or a crime. The House amendments include changing the offense from preventing to interfering with the reporting of an emergency or crime, deleting attempts to prevent as an element of the offense, and changes the offense to a petty misdemeanor from a misdemeanor."

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 64, S.D. 1, and S.B. No. 64, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CRIME," was placed on the calendar for Final Reading on Tuesday, May 1, 2001.

S.B. No. 65 (H.D. 1):

Senator Kanno moved that the Senate reconsider its action taken on April 12, 2001, in disagreeing to the amendments proposed by the House to S.B. No. 65, seconded by Senator Matsuura and carried.

In accordance with the Conference Committee Procedures agreed upon by the Senate and the House of Representatives, the managers on the part of the Senate recommended that the Senate agree to the amendments proposed by the House to S.B. No. 65 on the following showing of Ayes and Noes:

Ayes, 3 (Kanno, Matsuura, Slom). Noes, none. Excused, none.

Senator Kanno moved that the Senate agree to the amendments proposed by the House to S.B. No. 65, seconded by Senator Matsuura.

Senator Kanno noted:

"Mr. President, S.B. No. 65 was a gut and replace on the House side. The Senate version was not agreed to. The House version, which we are agreeing to, requires persons to whom penal summonses have been issued for a criminal offense and who have been convicted, granted a deferred plea, or granted a conditional discharge to undergo identification processing for criminal history records."

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 65 and S.B. No. 65, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CRIMINAL PROCEDURE," was placed on the calendar for Final Reading on Tuesday, May 1, 2001.

S.B. No. 67, S.D. 1 (H.D. 1):

Senator Kanno moved that the Senate reconsider its action taken on April 12, 2001, in disagreeing to the amendments proposed by the House to S.B. No. 67, S.D. 1, seconded by Senator Matsuura and carried.

In accordance with the Conference Committee Procedures agreed upon by the Senate and the House of Representatives, the managers on the part of the Senate recommended that the Senate agree to the amendments proposed by the House to S.B. No. 67, S.D. 1, on the following showing of Ayes and Noes:

Ayes, 3 (Kanno, Matsuura, Slom). Noes, none. Excused, 1 (Ihara).

Senator Kanno moved that the Senate agree to the amendments proposed by the House to S.B. No. 67, S.D. 1, seconded by Senator Matsuura.

Senator Kanno noted:

"Mr. President, S.B. No. 67 allows the court to deny without a hearing motions to dismiss or to modify terms of existing protective orders. The Conference Committee agreed with the House amendments requiring allegations of a material change rather than a significant change in circumstances for a hearing on a motion to dismiss or to modify the terms of an order of protection."

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 67, S.D. 1, and S.B. No. 67, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DOMESTIC ABUSE PROTECTIVE ORDERS," was placed on the calendar for Final Reading on Tuesday, May 1, 2001.

S.B. No. 69, S.D. 1 (H.D. 1):

Senator Kanno moved that the Senate reconsider its action taken on April 12, 2001, in disagreeing to the amendments

proposed by the House to S.B. No. 69, S.D. 1, seconded by Senator Matsuura and carried.

In accordance with the Conference Committee Procedures agreed upon by the Senate and the House of Representatives, the managers on the part of the Senate recommended that the Senate agree to the amendments proposed by the House to S.B. No. 69, S.D. 1, on the following showing of Ayes and Noes:

Ayes, 3 (Kanno, Matsuura, Slom). Noes, none. Excused, none.

Senator Kanno moved that the Senate agree to the amendments proposed by the House to S.B. No. 69, S.D. 1, seconded by Senator Matsuura.

Senator Kanno noted:

"Mr. President, S.B. No. 69 repeals a three-year time limit of protective orders. The Senate is agreeing to the House language which requires that the initial time period and extensions must be of reasonable lengths."

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 69, S.D. 1, and S.B. No. 69, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PROTECTIVE ORDER," was placed on the calendar for Final Reading on Tuesday, May 1, 2001.

S.B. No. 98 (H.D. 1):

Senator Kanno moved that the Senate reconsider its action taken on April 12, 2001, in disagreeing to the amendments proposed by the House to S.B. No. 98, seconded by Senator Matsuura and carried.

In accordance with the Conference Committee Procedures agreed upon by the Senate and the House of Representatives, the managers on the part of the Senate recommended that the Senate agree to the amendments proposed by the House to S.B. No. 98 on the following showing of Ayes and Noes:

Ayes, 3 (Kanno, Hanabusa, Hemmings). Noes, none. Excused, 1 (Ihara).

Senator Kanno moved that the Senate agree to the amendments proposed by the House to S.B. No. 98, seconded by Senator Matsuura.

Senator Kanno noted:

"Mr. President, S.B. No. 98 repeals the sunset date of June 30, 2002, in the legal services for the indigent act. The differences that we are agreeing to in the House version are technical and nonsubstantive."

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 98 and S.B. No. 98, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LEGAL SERVICES FOR THE INDIGENT," was placed on the calendar for Final Reading on Tuesday, May 1, 2001.

S.B. No. 423, S.D. 1 (H.D. 1):

Senator Kanno moved that the Senate reconsider its action taken on April 12, 2001, in disagreeing to the amendments proposed by the House to S.B. No. 423, S.D. 1, seconded by Senator Matsuura and carried.

In accordance with the Conference Committee Procedures agreed upon by the Senate and the House of Representatives, the managers on the part of the Senate recommended that the Senate agree to the amendments proposed by the House to S.B. No. 423, S.D. 1, on the following showing of Ayes and Noes:

Ayes, 3 (Kanno, Matsuura, Slom). Noes, none. Excused, 1 (Ihara).

Senator Kanno moved that the Senate agree to the amendments proposed by the House to S.B. No. 423, S.D. 1, seconded by Senator Matsuura.

Senator Kanno noted:

“Mr. President, S.B. No. 423 provides that a party may seek to extend the term of a domestic judgment decree by filing either a non-hearing or hearing motion. The Senate is agreeing to the House version which deleted the portions of the measure that authorizes the garnishment of government vendors as government beneficiaries.”

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 423, S.D. 1, and S.B. No. 423, S.D. 1, H.D. 1, entitled: “A BILL FOR AN ACT RELATING TO CIVIL PROCEEDINGS,” was placed on the calendar for Final Reading on Tuesday, May 1, 2001.

S.B. No. 759, S.D. 1 (H.D. 1):

Senator Kanno moved that the Senate reconsider its action taken on April 12, 2001, in disagreeing to the amendments proposed by the House to S.B. No. 759, S.D. 1, seconded by Senator Matsuura and carried.

In accordance with the Conference Committee Procedures agreed upon by the Senate and the House of Representatives, the managers on the part of the Senate recommended that the Senate agree to the amendments proposed by the House to S.B. No. 759, S.D. 1, on the following showing of Ayes and Noes:

Ayes, 2 (Kanno, Matsuura). Noes, none. Excused, 1 (Hogue).

Senator Kanno moved that the Senate agree to the amendments proposed by the House to S.B. No. 759, S.D. 1, seconded by Senator Matsuura.

Senator Kanno noted:

“Mr. President, S.B. No. 759 enacts a new joint tortfeasor release statute. The House amendments were technical and nonsubstantive.”

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 759, S.D. 1, and S.B. No. 759, S.D. 1, H.D. 1, entitled: “A BILL FOR AN ACT RELATING TO TORT ACTIONS,” was placed on the calendar for Final Reading on Tuesday, May 1, 2001.

S.B. No. 805, S.D. 1 (H.D. 1):

Senator Kanno moved that the Senate reconsider its action taken on April 12, 2001, in disagreeing to the amendments proposed by the House to S.B. No. 805, S.D. 1, seconded by Senator Matsuura and carried.

In accordance with the Conference Committee Procedures agreed upon by the Senate and the House of Representatives,

the managers on the part of the Senate recommended that the Senate agree to the amendments proposed by the House to S.B. No. 805, S.D. 1, on the following showing of Ayes and Noes:

Ayes, 3 (Kanno, Matsuura, Slom). Noes, none. Excused, none.

Senator Kanno moved that the Senate agree to the amendments proposed by the House to S.B. No. 805, S.D. 1, seconded by Senator Matsuura.

Senator Kanno noted:

“Mr. President, S.B. No. 805 allows the Narcotics Enforcement Division to share information on prescription fraud or abuse from the electronic prescription accountability system with pharmacists. The amendments the House made were technical and nonsubstantive.”

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 805, S.D. 1, and S.B. No. 805, S.D. 1, H.D. 1, entitled: “A BILL FOR AN ACT RELATING TO CONTROLLED SUBSTANCES,” was placed on the calendar for Final Reading on Tuesday, May 1, 2001.

S.B. No. 951, S.D. 1 (H.D. 1):

Senator Kanno moved that the Senate reconsider its action taken on April 12, 2001, in disagreeing to the amendments proposed by the House to S.B. No. 951, S.D. 1, seconded by Senator Matsuura and carried.

In accordance with the Conference Committee Procedures agreed upon by the Senate and the House of Representatives, the managers on the part of the Senate recommended that the Senate agree to the amendments proposed by the House to S.B. No. 951, S.D. 1, on the following showing of Ayes and Noes:

Ayes, 3 (Kanno, Chumbley, Matsuura). Noes, none. Excused, 2 (Chun, Hogue).

Senator Kanno moved that the Senate agree to the amendments proposed by the House to S.B. No. 951, S.D. 1, seconded by Senator Matsuura.

Senator Kanno noted:

“Mr. President, S.B. No. 951 is the hate crime legislation. The amendments that the House made that the Senate is agreeing to revises the bias categories to conform with those currently used by the U.S. Attorney General and the FBI pursuant to the hate crimes statistics act of 1990 and changes the effective date to effective upon its approval.”

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 951, S.D. 1, and S.B. No. 951, S.D. 1, H.D. 1, entitled: “A BILL FOR AN ACT RELATING TO HATE CRIMES,” was placed on the calendar for Final Reading on Tuesday, May 1, 2001.

S.B. No. 640, S.D. 1 (H.D. 1):

Senator Buen moved that the Senate reconsider its action taken on April 12, 2001, in disagreeing to the amendments proposed by the House to S.B. No. 640, S.D. 1, seconded by Senator Kanno and carried.

In accordance with the Conference Committee Procedures agreed upon by the Senate and the House of Representatives,

the managers on the part of the Senate recommended that the Senate agree to the amendments proposed by the House to S.B. No. 640, S.D. 1, on the following showing of Ayes and Noes:

Ayes, 4 (Buen, Kanno, Chumbley, Matsuura). Noes, none. Excused, 2 (Kokubun, Hogue).

Senator Buen moved that the Senate agree to the amendments proposed by the House to S.B. No. 640, S.D. 1, seconded by Senator Kanno.

Senator Buen noted:

"Mr. President, S.B. No. 640, S.D. 1, relates to agricultural theft. The purpose of S.D. 1 is to criminalize and to create civil liability for the destruction of crops. S.B. No. 640, S.D. 1, H.D. 1, imposes civil liability upon persons who damage or destroy silvicultural or agricultural commodities that are known to be intended for personal or commercial purposes, or for research and development purposes, and establishes damages at twice the market value of the crop or commodity destroyed and the costs associated with production, research, testing, and replacement.

"Support by the industry was very supportive of H.D. 1, and for this reason, your Committee on Agriculture recommends that the Senate move to agree on this measure."

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 640, S.D. 1, and S.B. No. 640, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," was placed on the calendar for Final Reading on Tuesday, May 1, 2001.

S.B. No. 1082, S.D. 1 (H.D. 2):

Senator Sakamoto moved that the Senate reconsider its action taken on April 12, 2001, in disagreeing to the amendments proposed by the House to S.B. No. 1082, S.D. 1, seconded by Senator Nakata and carried.

Senator Sakamoto moved that the Senate agree to the amendments proposed by the House to S.B. No. 1082, S.D. 1, seconded by Senator Nakata.

Senator Sakamoto noted:

"Mr. President, this bill changed the school-to-work terminology related to workers' comp coverage. There are different parts of it, but in essence, changed to a school-approved work based learning to be covered by the state for students."

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 1082, S.D. 1, and S.B. No. 1082, S.D. 1, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," was placed on the calendar for Final Reading on Tuesday, May 1, 2001.

S.B. No. 1067, S.D. 1 (H.D. 1):

Senator Menor moved that the Senate reconsider its action taken on April 5, 2001, in disagreeing to the amendments proposed by the House to S.B. No. 1067, S.D. 1, seconded by Senator Matsunaga and carried.

Senator Menor moved that the Senate agree to the amendments proposed by the House to S.B. No. 1067, S.D. 1, seconded by Senator Matsunaga.

Senator Menor noted:

"Mr. President, the purpose of this measure is to reduce the potential for residential hurricane insurance solvency in the event of a hurricane by requiring the insurance commissioner to use an actuarial analysis to evaluate a residential hurricane insurer's ability to pay claims. The House amendments would implement a compromise reached between the insurance division and various parties who had expressed concerns about the original version of this bill."

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 1067, S.D. 1, and S.B. No. 1067, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LIMITING HURRICANE PROPERTY INSURANCE RISK," was placed on the calendar for Final Reading on Tuesday, May 1, 2001.

S.B. No. 1062, S.D. 1 (H.D. 1):

Senator Menor moved that the Senate reconsider its action taken on April 3, 2001, in disagreeing to the amendments proposed by the House to S.B. No. 1062, S.D. 1, seconded by Senator English and carried.

In accordance with the Conference Committee Procedures agreed upon by the Senate and the House of Representatives, the managers on the part of the Senate recommended that the Senate agree to the amendments proposed by the House to S.B. No. 1062, S.D. 1, on the following showing of Ayes and Noes:

Ayes, 3 (Menor, Kim, Hogue). Noes, none. Excused, 1 (English).

Senator Menor moved that the Senate agree to the amendments proposed by the House to S.B. No. 1062, S.D. 1, seconded by Senator English.

Senator Menor noted:

"Mr. President, S.B. No. 1062 would authorize the conversion of professional and vocational licenses when the licensee changes its form of business. The House amendments would make technical, non-substantive amendments and the House version is technically correct."

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 1062, S.D. 1, and S.B. No. 1062, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE CONVERSION OF PROFESSIONAL AND VOCATIONAL LICENSES," was placed on the calendar for Final Reading on Tuesday, May 1, 2001.

S.B. No. 1065 (H.D. 1):

Senator Menor moved that the Senate reconsider its action taken on April 5, 2001, in disagreeing to the amendments proposed by the House to S.B. No. 1065, seconded by Senator English and carried.

In accordance with the Conference Committee Procedures agreed upon by the Senate and the House of Representatives, the managers on the part of the Senate recommended that the Senate agree to the amendments proposed by the House to S.B. No. 1065 on the following showing of Ayes and Noes:

Ayes, 3 (Menor, Kim, Hogue). Noes, none. Excused, 1 (English).

Senator Menor moved that the Senate agree to the amendments proposed by the House to S.B. No. 1065, seconded by Senator English.

Senator Menor noted:

"Mr. President, S.B. No. 1065 would clarify requirements for the licensure of architects consistent with administrative rules and current standards of professional training by colleges and universities. The House amendments would make technical, non-substantive amendments and the House version is technically correct."

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 1065 and S.B. No. 1065, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ARCHITECTS," was placed on the calendar for Final Reading on Tuesday, May 1, 2001.

S.B. No. 1069, S.D. 1 (H.D. 1):

Senator Menor moved that the Senate reconsider its action taken on April 5, 2001, in disagreeing to the amendments proposed by the House to S.B. No. 1069, S.D. 1, seconded by Senator English and carried.

In accordance with the Conference Committee Procedures agreed upon by the Senate and the House of Representatives, the managers on the part of the Senate recommended that the Senate agree to the amendments proposed by the House to S.B. No. 1069, S.D. 1, on the following showing of Ayes and Noes:

Ayes, 3 (Menor, English, Hogue). Noes, none. Excused, 1 (Chumbley).

Senator Menor moved that the Senate agree to the amendments proposed by the House to S.B. No. 1069, S.D. 1, seconded by Senator English.

Senator Menor noted:

"Mr. President, S.B. No. 1069, S.D. 1, would correct erroneous statutory cross references and inconsistent dates in the state insurance law. The House amendments would make technical, nonsubstantive amendments and the House version is technically correct."

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 1069, S.D. 1, and S.B. No. 1069, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," was placed on the calendar for Final Reading on Tuesday, May 1, 2001.

Senator Matsuura, Chair of the Committee on Health and Human Services, requested a waiver of the notice requirement pursuant to Senate Rule 20 for Gov. Msg. No. 300, and the Chair granted the waiver.

Senator Slom rose on a point of personal privilege as follows:

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

"I think we're all relieved that the teacher's strike has apparently been settled. It's kind of like the situation, though, after you've finished your Christmas or holiday shopping and then a couple months later you wait until the bills and the charge statements come in. But I think that the whole community suffered. I think that we still have to press for meaningful educational reforms and changes because if we do

not, we're going to face the same situation again in a couple of years.

"We must have been doing something right, however, Mr. President, because the Governor blamed us for problems with the negotiations. The Honolulu Advertiser blamed us for problems with the settlement. The Department of Health Chairman, who has his own problems and can't do what he's supposed to do with the State Hospital, blamed us, basically, and others as well. So we must have done something in terms of trying to resolve this early or to avoid it and try to anticipate.

"I would just say finally, Mr. President, I did enjoy the lively and spirited debate this afternoon on the issues of rules and procedures. I only wish that my colleagues would be as passionate and spirited when it came time to debating, oh I don't know, special funds, emergency appropriations, tax increases, more government regulation, things of that nature, Mr. President. But I'm optimistic and I'm hopeful, and so I'm sure that will come too in the future.

"Thank you, Mr. President, for the time."

#### APPOINTMENT OF CONFEREES

S.C.R. No. 85 (H.D. 1):

In accordance with the disagreement of the Senate to the amendments proposed by the House to S.C.R. No. 85, and the request for a conference on the subject matter thereof, the President appointed Senators Chun, chair; Inouye, co-chair; Chumbley, Kokubun, Hemmings as managers on the part of the Senate at such conference.

#### ADJOURNMENT

At 12:50 o'clock p.m., on motion by Senator English, seconded by Senator Hemmings and carried, the Senate adjourned until 11:30 o'clock a.m., Wednesday, April 25, 2001.

Respectfully submitted,

Clerk of the Senate

Approved:

President of the Senate