

**JOURNAL**  
**of the**  
**SENATE OF THE**  
**TWENTY - EIGHTH LEGISLATURE**  
**of the**  
**STATE OF HAWAI‘I**

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**Special Session of 2015**

**Convened Thursday, November 5, 2015**  
**Adjourned Friday, November 6, 2015**

**OFFICERS OF THE SENATE**

**President**

**HONORABLE RONALD D. KOUCHI** .....Waimea, Hawai'i

**Vice President**

**HONORABLE WILL ESPERO**.....Honolulu, Hawai'i

**Clerk**

**CAROL T. TANIGUCHI**.....Honolulu, Hawai'i

**Assistant Clerk**

**JENNIFER T. CHOW**.....Honolulu, Hawai'i

**Sergeant-at-Arms**

**BIENVENIDO C. VILLAFLOR**.....Honolulu, Hawai'i

**Assistant Sergeant-at-Arms**

**DANIEL U.I. HOLT** .....Honolulu, Hawai'i

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Senator Michelle N. Kidani, Vice Chair

Senator Will Espero  
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Senator Clarence K. Nishihara

Senator Russell E. Ruderman  
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Senator Will Espero  
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Senator Les Ihara, Jr.

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Senator Suzanne Chun Oakland  
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Senator Les Ihara, Jr., Vice Chair

Senator Donovan M. Dela Cruz  
Senator Gilbert S.C. Keith-Agaran  
Senator Maile S.L. Shimabukuro

Senator Jill N. Tokuda  
Senator Sam Slom

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Senator J. Kalani English, Vice Chair

Senator Lorraine R. Inouye  
Senator Donna Mercado Kim

Senator Sam Slom

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Senator Gilbert Kahele, Vice Chair

Senator Mike Gabbard  
Senator Michelle N. Kidani

Senator Sam Slom

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Senator Les Ihara, Jr.  
Senator Brian T. Taniguchi

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Senator Laura H. Thielen  
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Senator Mike Gabbard  
Senator Gilbert Kahele  
Senator Donna Mercado Kim

Senator Laura H. Thielen  
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Senator Brickwood Galuteria  
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Senator Mike Gabbard, Chair  
Senator Clarence K. Nishihara, Vice Chair

Senator Donovan M. Dela Cruz  
Senator Gil Riviere  
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Senator Maile S.L. Shimabukuro

Senator Laura H. Thielen  
Senator Glenn Wakai  
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**WAYS AND MEANS**

Senator Jill N. Tokuda, Chair  
Senator Donovan M. Dela Cruz, Vice Chair

Senator Suzanne Chun Oakland  
Senator J. Kalani English  
Senator Brickwood Galuteria  
Senator Breene Harimoto  
Senator Lorraine R. Inouye

Senator Gil Riviere  
Senator Brian T. Taniguchi  
Senator Glenn Wakai  
Senator Sam Slom

**MEMBERS OF THE SENATE  
TWENTY - EIGHTH LEGISLATURE  
STATE OF HAWAII  
SPECIAL SESSION OF 2015**



**RONALD D. KOUCHI**  
8th Senatorial District  
President



**WILL ESPERO**  
19th Senatorial District  
Vice President



**J. KALANI ENGLISH**  
7th Senatorial District  
Majority Leader



**JOSH GREEN**  
3rd Senatorial District  
Majority Floor Leader/Whip



**BRICKWOOD GALUTERIA**  
12th Senatorial District  
Majority Caucus Leader



**DONOVAN M. DELA CRUZ**  
22nd Senatorial District  
Majority Whip



**SAM SLOM**  
9th Senatorial District  
Minority Leader/Floor Leader



**ROSALYN H. BAKER**  
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Chair: Commerce,  
Consumer Protection, and Health



**SUZANNE CHUN OAKLAND**  
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Chair: Human Services



**MIKE GABBARD**  
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Chair: Water, Land, and Agriculture



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16th Senatorial District  
Chair: Housing



**LES IHARA, JR.**  
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**LORRAINE R. INOUYE**  
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Chair: Transportation and Energy



**GILBERT KAHELE**  
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Chair: Tourism and International Affairs



**GILBERT S.C. KEITH-AGARAN**  
5th Senatorial District  
Chair: Judiciary and Labor



**MICHELLE N. KIDANI**  
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Chair: Education



**DONNA MERCADO KIM**  
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**CLARENCE K. NISHIHARA**  
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Chair: Public Safety,  
Intergovernmental and  
Military Affairs



**GIL RIVIERE**  
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**MAILE S.L. SHIMABUKURO**  
21st Senatorial District  
Chair: Hawaiian Affairs



**BRIAN T. TANIGUCHI**  
11th Senatorial District  
Chair: Higher Education  
and the Arts



**LAURA H. THIELEN**  
25th Senatorial District



**JILL N. TOKUDA**  
24th Senatorial District  
Chair: Ways and Means



**GLENN WAKAI**  
15th Senatorial District  
Chair: Economic Development,  
Environment, and Technology



**JENNIFER T. CHOW**  
Assistant Clerk



**CAROL T. TANIGUCHI**  
Clerk



**DANIEL U.I. HOLT**  
Assistant Sergeant-at-Arms



**BIENVENIDO C. VILLAFLORES**  
Sergeant-at-Arms

**TABLE OF CONTENTS**

	<b>PAGE</b>
<b>First Day, Thursday, November 5, 2015</b> .....	<b>1</b>
<b>Second Day, Friday, November 6, 2015</b> .....	<b>2</b>
 <b>Appendix:</b>	
<b>Standing Committee Reports</b> .....	<b>6</b>
 <b>History:</b>	
<b>Senate Resolutions</b> .....	<b>9</b>

THE  
 TWENTY-EIGHTH LEGISLATURE  
 STATE OF HAWAII  
 SPECIAL SESSION OF 2015  
 JOURNAL OF THE SENATE

FIRST DAY

**Thursday, November 5, 2015**

The Senate of the Twenty-Eighth Legislature of the State of Hawai'i, Special Session of 2015, was called to order at 11:05 a.m., by Senator Ronald D. Kouchi, President of the Senate, in accordance with the following Proclamation, which was read by the Clerk and was placed on file:

*"Proclamation*

October 27, 2015

I, Ronald D. Kouchi, President of the Senate of the Twenty-Eighth Legislature of the State of Hawaii, pursuant to the power vested in me by Section 10, Article III of the Constitution of the State of Hawaii, and at the written request of two-thirds of the members to which the Senate is entitled, do hereby convene the Senate in Special Session as sought in the petition at 11:00 o'clock a.m. on Thursday, November 5, 2015, in the State Capitol Senate Chambers, for the purpose of carrying out its responsibilities established by Section 3, Article VI of the Constitution of the State of Hawaii.

/s/ Ronald D. Kouchi  
 Ronald D. Kouchi  
 President of the Senate"

The Roll was called showing all Senators present with the exception of Senators Baker, Dela Cruz, Kim, Nishihara, and Ruderman who were excused.

At this time, the Chair noted that Senator Baker and Senator Nishihara were delayed in returning to Hawai'i from a health conference in San Diego, California, due to recent events involving an active shooter, and extended best wishes for their safe return.

Senator Ihara, on behalf of the members of the Senate, acknowledged and welcomed back Senator Harimoto after a brief absence to address health concerns.

**MESSAGES FROM THE GOVERNOR**

The following messages from the Governor (Gov. Msg. Nos. 1 and 2) were read by the Clerk and were disposed of as follows:

Gov. Msg. No. 1, submitting for consideration and confirmation, the nomination of SHIRLEY KAWAMURA to the State of Hawai'i First Circuit Court, for a term of ten years, was referred to the Committee on Judiciary and Labor.

Gov. Msg. No. 2, submitting for consideration and confirmation, the nomination of MELVIN FUJINO to the State of Hawai'i Third Circuit Court, for a term of ten years, was referred to the Committee on Judiciary and Labor.

**JUDICIARY COMMUNICATION**

The following communication from the Judiciary (Jud. Com. No. 1) was read by the Clerk and was disposed of as follows:

Jud. Com. No. 1, submitting for consideration and confirmation, the nomination of JAMES C. MCWHINNIE to the District Court of the First Circuit, for a term of six years, was referred to the Committee on Judiciary and Labor.

At this time, Senator Keith-Agaran announced that the Committee on Judiciary and Labor would be holding a decision making meeting on Jud. Com. No. 1 and Gov. Msg. Nos. 1 and 2 at 1:30 p.m. that afternoon in Conference Room 016.

**STANDING COMMITTEE REPORTS**

On motion by Senator Green, seconded by Senator Slom and carried unanimously, the Clerk was authorized to receive standing committee reports on Jud. Com. No. 1 and Gov. Msg. Nos. 1 and 2. In consequence thereof, and subsequent to its recessing at 11:10 a.m., the Senate took the following actions:

Senator Keith-Agaran, for the Committee on Judiciary and Labor, presented a report (Stand. Com. Rep. No. 1) recommending that the Senate consent to the nomination of SHIRLEY KAWAMURA to the Circuit Court of the First Circuit, State of Hawaii, in accordance with Gov. Msg. No. 1.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1 and Gov. Msg. No. 1 was deferred until Friday, November 6, 2015.

Senator Keith-Agaran, for the Committee on Judiciary and Labor, presented a report (Stand. Com. Rep. No. 2) recommending that the Senate consent to the nomination of MELVIN FUJINO to the Circuit Court of the Third Circuit, State of Hawaii, in accordance with Gov. Msg. No. 2.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 2 and Gov. Msg. No. 2 was deferred until Friday, November 6, 2015.

Senator Keith-Agaran, for the Committee on Judiciary and Labor, presented a report (Stand. Com. Rep. No. 3) recommending that the Senate consent to the nomination of JAMES C. MCWHINNIE to the District Court of the First Circuit, State of Hawaii, in accordance with Jud. Com. No. 1.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 3 and Jud. Com. No. 1 was deferred until Friday, November 6, 2015.

**ADJOURNMENT**

At 4:30 p.m., the Senate adjourned until 11:00 a.m., Friday, November 6, 2015.

## SECOND DAY

Friday, November 6, 2015

The Senate of the Twenty-Eighth Legislature of the State of Hawai'i, Special Session of 2015, convened at 11:04 a.m. with the President in the Chair.

The Roll was called showing all Senators present with the exception of Senators Dela Cruz, Kahele, and Kim who were excused.

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

At this time, Senator Shimabukuro introduced her cousin, Madeleine Young, who was present in the gallery with supporters from Damon Key.

Senator Green rose to wish Senator Espero a happy birthday on behalf of the members of the Senate

**ORDER OF THE DAY  
ADVISE AND CONSENT**

Stand. Com. Rep. No. 1 (Gov. Msg. No. 1):

Senator Keith-Agaran moved that Stand. Com. Rep. No. 1 be received and placed on file, seconded by Senator Shimabukuro and carried.

Senator Keith-Agaran then moved that the Senate consent to the nomination of SHIRLEY KAWAMURA to the Circuit Court of the First Circuit, State of Hawaii, for a term of ten years, seconded by Senator Shimabukuro.

Senator Keith-Agaran rose to speak in support of the nominee as follows:

"The testimony uniformly praised Judge Kawamura's abilities as a lawyer, a jurist, and a community member. She was described as quick, thorough, that she knows her stuff. One asserted that being a judge is her true calling. Another well-respected Bishop Street attorney swore that the nominee was singularly the best young attorney he's ever worked with, and another of her colleagues said she provided exceptional insights and analytical skills and wrote excellent, well-reasoned work products.

"Judge Kawamura, when considered for her current position, brought experience in both civil and criminal law. On the bench, she has played a key role in specialty courts dealing with DWI, mental health issues, jail diversion, and addiction, and has served as an acting circuit judge in various divisions.

"Others asserted she brings a composed judicial temperament, fairness, and civility to her courtroom, and issues decisions that balance common sense and real-life considerations with the often strict, theoretical, academic, or abstract underpinnings of our law.

"Having reviewed the testimony and other materials submitted on this nomination and having examined the nominee in a hearing, your committee is satisfied that Judge Kawamura has a deep commitment to justice. And we recommend and I would urge all my colleagues to consent to the nomination of Shirley Kawamura as a circuit court judge in the First Circuit. Thank you."

Senator Baker requested that remarks in strong support of the nominee be entered into the Journal, and the Chair so ordered.

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

"Mr. President, I rise in support of the nomination of Shirley M. Kawamura as a judge to the Circuit Court of the First Circuit.

"Ms. Kawamura currently sits as a District Court judge as well as spending time as a replacement judge in Circuit Court. Through her many years of professional experience, both in civil law and criminal law, Ms. Kawamura has proven she is highly qualified for this position.

"Ms. Kawamura received testimony in support from a wide array of individuals, describing her as having exceptional work ethic, fair demeanor, and superior range of knowledge. Those who know her in the community highlight her strong family values and her commitment to the State.

"Being an effective judge is more than just work ethic and knowledge; you need to have a passion to truly help the people in your community. Ms. Kawamura possesses that quality. Members of the Adult Mental Health Division praised her as an advocate in reducing recidivism and as a collaborator to ensure that mental health issues are addressed appropriately within the criminal justice system. She has been a key player with the creation of the Special Courts to deal with mental health issues, jail diversion, and addiction. These types of cases take a special consideration and passion and those qualities are exemplified with Ms. Kawamura.

"Over the course of her career, she has also displayed decisiveness and fairness in her decision making.

"I believe Judge Kawamura has the temperament, intellect, leadership and experience that will be a great asset to her as she moves to the Circuit Courtroom. I urge my colleagues to join me in confirming Ms. Kawamura to the First Circuit Court. Mahalo"

Senator Slom rose to speak in strong support of the nominee as follows:

"As I mentioned yesterday, Judge Kawamura has a unique temperament and passion, which will enable her to do an outstanding job. There are going to be many challenges facing, particularly, the circuit court next year with a number of absences and so forth, but I know she's up to the job, and we in east Honolulu are particularly proud of her and look forward to her on the bench. Thank you."

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

Ayes, 22. Noes, none. Excused, 3 (Dela Cruz, Kahele, Kim).

Senator Keith-Agaran then introduced Judge Shirley Kawamura, who was accompanied in the gallery by her mother, Yoko Kawamura; her father-in-law, Raymond Tanaka; her mother-in-law, Judith Tanaka; her husband, Jason Shimizu; her daughter, Kela Pavao; her son, Asa Shimizu; and her sister-in-law, Cherise Kawamura.

Stand. Com. Rep. No. 2 (Gov. Msg. No. 2):

Senator Keith-Agaran moved that Stand. Com. Rep. No. 2 be received and placed on file, seconded by Senator Shimabukuro and carried.

Senator Keith-Agaran then moved that the Senate consent to the nomination of MELVIN FUJINO to the Circuit Court of the

Third Circuit, State of Hawaii, for a term of ten years, seconded by Senator Shimabukuro.

Senator Keith-Agaran rose to speak in support of the nominee as follows:

“The nominee received uniform support from the West Hawaii Bar, other lawyers he has worked with and those who have appeared before his bench, and people from the Big Island community who have known him from small-kid time throughout his careers as a flight attendant, prosecutor, deputy attorney general, and as a district court judge, and most recently, as an acting circuit court judge. They attested to Judge Fujino’s intelligence, even-temperedness, his helpfulness and diligence.

“Judge Fujino also possesses a quality that I admired as a young practicing attorney: He’s a judge who makes decisions while remaining clear, firm, compassionate, and – as the members of the committee saw during his hearing – thorough.

“Having reviewed the testimony and other materials submitted on this nomination and having examined Judge Fujino, your committee is satisfied that he possesses a deep commitment to justice, and we recommend and I again would urge all my colleagues to consent to the nomination of Melvin Fujino as a circuit court judge of the Third Circuit.”

Senator Slom rose to speak in support of the nominee as follows:

“Thank you, Mr. President. On behalf of the Senate Minority, we, too, give our wholehearted support for Judge Fujino. Not only is he well-prepared, but we know that he’s very diligent, very well-organized, has a special affinity for the specialty courts, and knows and has explained some of the very specific problems in the Third Circuit. So we look forward to him on the bench. Thank you.”

Senator Inouye rose to speak in support of the nominee as follows:

“Thank you, Mr. President. Colleagues, during the interview process when Mel came into my office, it was reminiscent of old days and, I guess, including this past week; and he kind of reminded me that, actually, I think he’s following me. When I was mayor in 1991, Mel worked in the prosecutor’s office until 2007 or 2008. And then I became the senator from the first district, and he moves to the AG’s office, or maybe he was there first.

“So we were almost along the same lines, being close, and prior to my leaving in 2008, Governor Lingle and Chief Justice Moon, at that time, asked me for support in creating the position for West Hawai’i, Waimea’s North Kohala region. And, certainly, we were happy to support that effort, and to some of you members, thank you for confirming that position as well. Then he was appointed to serve in that position, serving in the district of West Hawai’i. And then, I see him in my office, and all of a sudden he gets promoted. I’m here; he’s here, so he says, ‘Well, maybe I’m following you around.’

“But, members, please support our new circuit court judge for the Third Circuit, Mel Fujino. Thank you, Mr. President.”

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

Ayes, 22. Noes, none. Excused, 3 (Dela Cruz, Kahele, Kim).

Senator Keith-Agaran then introduced Judge Melvin Fujino, who was accompanied in the gallery by his uncle, Dr. Howard Fujino; his uncle’s wife, Leonora Fujino; and his niece, Kelly Kitaoka.

Stand. Com. Rep. No. 3 (Jud. Com. No. 1):

Senator Keith-Agaran moved that Stand. Com. Rep. No. 3 be received and placed on file, seconded by Senator Shimabukuro and carried.

Senator Keith-Agaran then moved that the Senate consent to the nomination of JAMES C. MCWHINNIE to the District Court of the First Circuit, State of Hawaii, for a term of six years, seconded by Senator Shimabukuro.

Senator Keith-Agaran rose to speak in support of the nominee as follows:

“Mr. President, this nominee has built a reputation that most lawyers work hard to earn throughout their careers. Testifiers repeatedly pointed to his calm, courteous, and warm demeanor and his reputation for keeping his cool. Others lauded his quick intelligence, candor, and fairness and his unquestioned legal abilities – a quick study, able to separate the wheat from the chaff. Uniformly, the testimony from within and outside the legal profession attested that the nominee is an excellent listener, consistently thoughtful, sincere, and honest, and especially mindful in listening to both sides.

“While the nominee brings no working experience in criminal law, the testimony and the nominee indicated that he will be able to master the different timetables, rules, and laws that apply in that practice field.

“And so having reviewed the testimony and other materials submitted on this nomination and having examined the nominee in a hearing, your committee is satisfied that Mr. McWhinnie has a deep commitment to justice, and we recommend and I would urge all my colleagues to consent to the nomination of James McWhinnie as a district court judge of the First Circuit.”

Senator Slom rose to speak in strong support of the nominee as follows:

“Thank you, Mr. President. On behalf of the Senate Minority, we stand in strong support of Mr. McWhinnie. It’s interesting because many of us who have known him for quite some time know many stories about him, but in deference, we won’t tell those stories today.

“But he has a broad background and experience. He has helped a number of people in the legal profession; he has business expertise; he has been a very strong supporter and advocate for both arbitration and mediation; and he has all of the skills that will serve him in the people’s court, where the rubber meets the road, in the district court. So we’re very pleased to support him and wish him well. Thank you, Mr. President.”

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

Ayes, 22. Noes, none. Excused, 3 (Dela Cruz, Kahele, Kim).

Senator Keith-Agaran then introduced Judge James C. McWhinnie, who was accompanied in the gallery by his wife, Stacey Tomiko McWhinnie; his daughter, Shannon Tomiko McWhinnie; and his son, Sean Takayuki McWhinnie.

The Chair then extended early happy birthday wishes to Senator Taniguchi.

At 11:19 a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:30 a.m.



Senator J. Kalani English  
Senator Michelle N. Kidani  
Senator Clarence K. Nishihara  
Senator Sam Slom

WATER, LAND, AND AGRICULTURE

Senator Mike Gabbard, Chair  
Senator Clarence K. Nishihara, Vice Chair  
Senator Donovan M. Dela Cruz  
Senator Gil Riviere  
Senator Russell E. Ruderman  
Senator Maile S.L. Shimabukuro  
Senator Laura H. Thielen  
Senator Glenn Wakai  
Senator Sam Slom

WAYS AND MEANS

Senator Jill N. Tokuda, Chair  
Senator Donovan M. Dela Cruz, Vice Chair  
Senator Suzanne Chun Oakland  
Senator J. Kalani English  
Senator Brickwood Galuteria  
Senator Breene Harimoto  
Senator Lorraine R. Inouye  
Senator Gil Riviere  
Senator Brian T. Taniguchi  
Senator Glenn Wakai  
Senator Sam Slom

**ADJOURNMENT**

Senator Green moved that the Senate of the Twenty-Eighth Legislature of the State of Hawai'i, Special Session of 2015, adjourn Sine Die, seconded by Senator Slom and carried.

At 11:33 a.m., the President rapped his gavel and declared the Senate of the Twenty-Eighth Legislature of the State of Hawai'i, Special Session of 2015, adjourned Sine Die.

## STANDING COMMITTEE REPORTS

**SCRep. 1            Judiciary and Labor on Gov. Msg. No. 1**

Recommending that the Senate consent to the nomination of the following:

CIRCUIT COURT OF THE FIRST CIRCUIT, STATE OF HAWAII

G.M. No. 1        SHIRLEY KAWAMURA, for a term to expire in ten years

Your Committee has reviewed the resume and statements submitted by the appointee and finds Shirley Kawamura to possess the requisite qualifications to be appointed to the Circuit Court of the First Circuit, State of Hawaii.

Testimony in support of the appointment of Judge Kawamura was submitted by Retired Judge “Bambi” Eden Elizabeth Hifo, Circuit Court of the First Circuit; State of Hawaii Organization of Police Officers; and forty individuals. Comments regarding the appointee were submitted by the Hawaii State Bar Association.

The Hawaii State Bar Association (HSBA) Board of Directors found the appointee to be qualified for the position of Circuit Court Judge, First Circuit, based on all categories of the HSBA criteria that includes: integrity, diligence, legal knowledge and ability, professional experience, temperament, financial responsibility, public service, health, and ability to fulfill the responsibilities and duties of the position.

Judge Kawamura received her Bachelor of Arts degree with Honors in Sociology at Brown University and her Doctorate of Jurisprudence from Stanford Law School. Since May 2012, she has served as a presiding District Court Judge of the First Circuit where she has primarily presided over the mental health, weed and seed, and criminal trial calendars and has managed and adjudicated cases in specialty courts, including Mental Health Treatment, Jail Diversion, and Driving While Impaired Courts. She also led the revision of the Driving Under the Influence (DUI) Benchmark and is in charge of training new judges presiding over the criminal and traffic calendars. Furthermore, for the past fourteen months, she has served as an Acting Circuit Court Judge of the First Circuit in various divisions and adjudicated cases on the felony criminal trials calendar.

Prior to her appointment to the District Court bench, Judge Kawamura served as an Associate Attorney with Kawashima Lorusso, LLP, focusing on the areas of personal injury; wrongful death; professional legal, accounting, broker, and medical malpractice; business, real estate, and contract disputes; and flood cases. She also previously served as a Senior Felony Trial Deputy with the Office of the Public Defender. As a Deputy Public Defender, she researched, prepared, and argued appellate briefs and substantive motions; gained extensive bench and jury trial experience; and managed and directed hundreds of criminal cases to successful resolution in District, Family, and Circuit Courts of the State of Hawaii.

Judge Kawamura is licensed to practice law in Hawaii. She is a member of the Judicial Administration Committee, Committee on Equality and Access to Courts, Mental Health Advisory Board, Driving While Impaired Court Steering Committee, and Hawaii Chapter of the American Inns of Court. She also previously served as a Volunteer Guardian Ad Litem and Board Member of the Legal Aid Society of Hawaii.

The testimony uniformly found Judge Kawamura well-qualified, with common sense to balance real-life considerations with legal principles in making determinations. Testifiers, including former colleagues and opposing counsel, describe her as prepared, professional, compassionate, and sharp. As a sitting judge, testifiers affirmed her as a thoughtful and composed jurist who treats all who appear before her with respect, even-handedness, sensitivity, and humility.

Judge Kawamura commented to your Committee that our justice system works well when all involved play their roles well and know their boundaries. Although Judge Kawamura describes the judicial branch of our government as rules- and procedure-oriented in contrast to the legislative and executive branches, which are more results-oriented, her experience in implementing Driving While Impaired and Mental Health courts satisfies her that specialty courts have a substantial role in bending us towards a common community goal of improving access to justice.

As such, your Committee finds that, based on testimony submitted on her behalf, Shirley Kawamura has the experience, temperament, judiciousness, and other competencies to be a Circuit Court Judge. She has a good sense of where the equities, rights, and responsibilities lie in a case, which is essential for a Circuit Court Judge.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee, after full consideration of the background, experience, and qualifications of the appointee, has found the appointee to be qualified for the position to which appointed and recommends that the Senate consent to the appointment.

Signed by the Chair on behalf of the Committee.

Ayes, 6. Noes, none. Excused, 1 (Kim).

**SCRep. 2            Judiciary and Labor on Gov. Msg. No. 2**

Recommending that the Senate consent to the nomination of the following:

CIRCUIT COURT OF THE THIRD CIRCUIT, STATE OF HAWAII

G.M. No. 2        MELVIN FUJINO, for a term to expire in ten years

Your Committee has reviewed the resume and statements submitted by the appointee and finds Melvin Fujino to possess the requisite qualifications to be appointed to the Circuit Court of the Third Circuit, State of Hawaii.

Testimony in support of the appointment of Judge Fujino was submitted by the Department of the Prosecuting Attorney, County of Maui, and ten individuals. Comments regarding the appointee were submitted by the Hawaii State Bar Association.

The Hawaii State Bar Association (HSBA) Board of Directors found the appointee to be qualified for the position of Circuit Court Judge, Third Circuit, based on all categories of the HSBA criteria that includes: integrity, diligence, legal knowledge and ability, professional experience, temperament, financial responsibility, public service, health, and ability to fulfill the responsibilities and duties of the position.

Judge Fujino earned his Bachelor of Arts degree in Psychology from the University of Washington and his Doctorate of Jurisprudence from the Gonzaga University School of Law. Since 2008, he has served as a presiding District Family Court Judge of the Third Circuit adjudicating cases, including divorce, paternity, guardianship, restraining orders, child protection, child support enforcement, juvenile petitions, and adoptions, as well as juvenile court cases within the jurisdiction of the District Family Court. In District Court, his case assignments include traffic and criminal cases, preliminary hearings, information charging, appeals from administrative driver education hearings, review of search warrants, arrest warrants, affidavits for further detention, and review of written statements for decriminalized traffic cases. Since April 2015, he has been assigned to sit as a temporary Circuit Court Judge in Kona to preside over jury and jury-waived civil, criminal, and probate cases. He is also assigned to cover Adult and Juvenile Drug Court cases.

Prior to his appointment to the District Family Court bench, Judge Fujino served as a Deputy Attorney General in the Criminal Justice Division where he was a team leader responsible for the Asset Forfeiture Unit and Wiretap Review Unit, supervision of deputies, and prosecution of assigned conflict cases, felony, and misdemeanor criminal cases. He also previously served as a District Prosecuting Attorney for Hawaii County where he was the supervisor of the West Hawaii Office and Community Oriented Prosecutor. His administrative responsibilities included, supervising deputies, as well as prosecuting criminal felony, misdemeanor, traffic, family, and identified community prosecution cases.

Judge Fujino has extensive participation in numerous organizations and activities for the benefit of the legal and Big Island communities. Throughout his legal career, he has been involved in implementing changes to enhance the efficiency of court procedures, including the processing of wiretap applications as a Deputy Attorney General, and working on the Multi-Agency Committee in better processing of detention orders and implementing an award winning Jail Diversion pilot program as a sitting judge.

Testimony in support of the nominee exemplifies that Judge Fujino is highly regarded and has a reputation for being diligent and thoroughly prepared. As a judge, he is described as possessing outstanding judicial temperament and being courteous and professional toward counsel and litigants even during the most difficult hearings or conferences. He possesses the ability to effectively communicate with parties and listens and thoughtfully considers various positions and issues brought to his courtroom. As a long-time resident of the Big Island and former Community Oriented Prosecutor for the Office of the Prosecuting Attorney of Hawaii County, he has demonstrated compassion, empathy, and awareness of the regional and social issues that give rise to cases before the courts.

As such, your Committee finds that, based on testimony submitted on his behalf, Melvin Fujino has the experience, temperament, judiciousness, and other competencies to be a Circuit Court Judge. He has a good sense of where the equities, rights, and responsibilities lie in a case, which is essential for a Circuit Court Judge.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee, after full consideration of the background, experience, and qualifications of the appointee, has found the appointee to be qualified for the position to which appointed and recommends that the Senate consent to the appointment.

Signed by the Chair on behalf of the Committee.  
Ayes, 6. Noes, none. Excused, 1 (Kim).

**SCRep. 3            Judiciary and Labor on Jud. Com. No. 1**

Recommending that the Senate consent to the nomination of the following:

DISTRICT COURT OF THE FIRST CIRCUIT, STATE OF HAWAII

J.C. No. 1            JAMES C. MCWHINNIE, for a term to expire in six years

Your Committee has reviewed the resume and statements submitted by the appointee and finds James C. McWhinnie to possess the requisite qualifications to be appointed to the District Court of the First Circuit, State of Hawaii.

Testimony in support of the appointment of Mr. McWhinnie was submitted by the Honorable Leslie E. Kobayashi, United States District Court of Hawaii; Retired Associate Justice James E. Duffy, Jr., Supreme Court of the State of Hawaii; Retired Judge "Bambi" Eden Elizabeth Hifo, Circuit Court of the First Circuit; and twenty-six individuals. Comments regarding the appointee were submitted by the Hawaii State Bar Association.

The Hawaii State Bar Association (HSBA) Board of Directors found the appointee to be qualified for the position of District Court Judge, First Circuit, based on all categories of the HSBA criteria that includes: integrity, diligence, legal knowledge and ability, professional experience, temperament, financial responsibility, public service, health, and ability to fulfill the responsibilities and duties of the position.

Mr. McWhinnie graduated Cum Laude and obtained his Bachelor of Arts degree in Psychology and Political Science from St. Mary's University of Minnesota. During his undergraduate studies, he was a member of Pi Gamma Mu - International Honor Society in Social Sciences and Psi Chi - International Honor Society in Psychology. He also served as a member of the Student Development Staff and was a Resident Advisor. Prior to attending law school, he attended the Master's in Business Administration program at the University of Hawaii at Manoa while managing several restaurants in Waikiki. He graduated Cum Laude and obtained his Doctorate of Jurisprudence from DePaul University College of Law. While in law school, he served as a DePaul Legal Clinic Student Attorney.

Since 1989, Mr. McWhinnie has served as a Director and Attorney at Damon Key Leong Kupchak Hastert where he emphasizes his legal practice in civil litigation and chairs the firm's practice management committee and litigation practice group. As a Director of the firm, he is responsible for substantial commercial, product liability, construction, environmental, and personal injury cases. He also has extensive experience in all aspects of alternative dispute resolution, having acted as an advocate, arbitrator, and mediator.

Furthermore, in addition to chairing the firm's practice management committee, he has also served on its executive, compensation, marketing, and other committees for a number of years. Mr. McWhinnie previously was an Associate Attorney, and later a Litigation Partner, at Rother, Bybee, Chang and Rulon.

Since 2006, Mr. McWhinnie has been selected by his peers to be included in The Best Lawyers in America in the areas of commercial litigation, real estate litigation, insurance litigation, and personal defense litigation and is recognized as a Super Lawyer in the areas of business litigation and civil litigation. He has held a Martindale-Hubbell rating of "AV" for the past twenty years and is a member of The Million Dollar Advocates Forum for attorneys who have been successful in million and multi-million dollar cases.

Mr. McWhinnie has extensive service and participation in the legal community, including serving as a volunteer in the Access to Justice Room at District Court of the First Circuit and providing pro bono services to various nonprofit organizations. Mr. McWhinnie also served as Secretary and as a Director of the HSBA in 2004. Prior to that Mr. McWhinnie was a member of HSBA's Judicial Administration Committee, including serving as its co-chairperson for four years, the Fee Dispute Committee, and the Alternative Dispute Resolution Section. Of particular note, since 1998, Mr. McWhinnie continues to serve on the Hawaii Supreme Court's Special Committee on Judicial Performance, which was created pursuant to Hawaii Supreme Court Rule 19. The purposes of the "Rule 19 Committee" include improving individual judges' performance, providing a source of information for application and retention decisions by the Judicial Selection Commission, facilitating the Chief Justice's assignment and use of judges, improving the design and content of judicial education programs, and assisting the Chief Justice in administering the judiciary.

Testimony in support of Mr. McWhinnie's appointment uniformly asserts his tremendous integrity, intelligence, legal knowledge, and ability to listen mindfully to both sides and to relate well with people. Of particular note, his commitment to the practice and professional enhancement of law is illustrated by co-founding HSBA's Lawyer Kokua Program, which is a mentorship program that assigns experienced practicing attorneys to be mentors to new members of the Hawaii Bar. While he has extensive civil litigation experience, he expresses the desire and commitment to enhance his criminal law and evidentiary rules and procedure knowledge in addition to keeping abreast with civil case law and procedure to become an effective District Court Judge.

As such, your Committee finds that, based on testimony submitted on his behalf, James C. McWhinnie has the experience, temperament, judiciousness, and other competencies to be a District Court Judge. He has a good sense of where the equities, rights, and responsibilities lie in a case, which is essential for a District Court Judge.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee, after full consideration of the background, experience, and qualifications of the appointee, has found the appointee to be qualified for the position to which appointed and recommends that the Senate consent to the appointment.

Signed by the Chair on behalf of the Committee.

Ayes, 6. Noes, none. Excused, 1 (Kim).

NUMBER AND TITLE	Offered	Referred	Report of Committee	Adoption
S.R. No. 1 AUTHORIZING THE PRESIDENT TO APPROVE THE JOURNAL OF THIS SENATE FOR THE SECOND DAY OF THE FIRST SPECIAL SESSION OF 2015.	4			4