

FIFTH DAY

Tuesday, January 26, 1988

The Senate of the Fourteenth Legislature of the State of Hawaii, Regular Session of 1988, convened at 12:04 o'clock p.m., with the President in the Chair.

The Divine Blessing was invoked by Mrs. Patricia Mumford of the Hawaii Council of Churches, after which the Roll was called showing all Senators present with exception of Senator Aki who was excused.

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

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 84 to 86) were read by the Clerk and were placed on file:

Gov. Msg. No. 84, transmitting copies of the Report on Suggested Legislation to Clarify County Boundaries in Relation to Kaula Island or Rock, prepared by the Department of the Attorney General in response to S.R. No. 11 (1987).

Gov. Msg. No. 85, transmitting copies of the Annual Report of Claims and Lawsuits Arbitrated, Compromised, or Settled for Fiscal Year 1986-1987, prepared by the Department of the Attorney General pursuant to Section 662-11, HRS.

Gov. Msg. No. 86, transmitting copies of the report Requesting the Departments of Agriculture and Health to Evaluate Programs Related to Produce, Feed, Egg, Meat and Poultry Inspection, Pesticide Enforcement and Plant Quarantine Programs, prepared by the Department of Health in response to H.C.R. No. 148 (1987).

SENATE CONCURRENT RESOLUTIONS

The following concurrent resolutions (S.C.R. Nos. 3 and 4) were read by the Clerk and were referred to committee:

Senate
Concurrent
Resolution

No. 3 "SENATE CONCURRENT RESOLUTION URGING THE SHARING OF FINGERPRINT IDENTIFICATION INFORMATION THROUGH AUTOMATED FINGERPRINT INFORMATION SYSTEMS."

Offered by: Senators Matsuura, Cobb, Kobayashi, A.

Referred to: Committee on Judiciary.

No. 4 "SENATE CONCURRENT RESOLUTION REQUESTING THAT THE UNITED STATES CONGRESS ESTABLISH A POSTAL INSPECTION PROGRAM TO HALT THE MAILING OF PARCELS CONTAINING FRUIT FLY INFESTED FRUIT."

Offered by: Senators Matsuura, Kobayashi, A., Solomon.

Referred to: Committee on Agriculture, Energy and Ocean Resources.

SENATE RESOLUTIONS

The following resolutions (S.R. Nos. 2 to 6) were read by the Clerk and were referred to committee:

Senate
Resolution

No. 2 "SENATE RESOLUTION URGING CONGRESS TO AMEND THE COASTAL ZONE MANAGEMENT ACT OF 1972 REGARDING FEDERAL ACTIVITIES THAT ARE SUBJECT TO THE FEDERAL CONSISTENCY PROVISIONS OF THE ACT AND SUPPORT STATE COASTAL MANAGEMENT PROGRAMS."

Offered by: Senators Matsuura, Chang, Kobayashi, A.

Referred to: Committee on Agriculture, Energy and Ocean Resources.

No. 3 "SENATE RESOLUTION URGING CONGRESS TO TAKE STEPS TO PROMOTE AND SUPPORT THE APPLICATION OF SATELLITE TECHNOLOGY IN THE FISHING INDUSTRY AND URGING CONGRESS TO RESTORE FEDERAL FUNDS TO THE REGIONAL AQUACULTURE CENTER PROGRAM OF THE UNITED STATES DEPARTMENT OF AGRICULTURE, AND EXPAND MEMBERSHIP IN THE AQUACULTURE REGIONAL CENTER."

Offered by: Senators Matsuura, Hagino, Kobayashi, A.

Referred to: Committee on Agriculture, Energy and Ocean Resources.

No. 4 "SENATE RESOLUTION URGING CONGRESS TO: (1) ESTABLISH THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION (NOAA) AS AN INDEPENDENT ORGANIZATION OF THE GOVERNMENT OF THE UNITED STATES; (2) ENACT A NATIONAL SEABED HARD MINERALS ACT; AND (3) REVIEW AND CONSIDER THE FINDINGS AND RECOMMENDATIONS IN THE WESTERN LEGISLATIVE CONFERENCE'S 1987 REPORT: PACIFIC STATES AND TERRITORIES OCEAN AGENDA: MANAGING A VAST RESOURCE FRONTIER."

Offered by: Senators Matsuura, Hee, Kobayashi, A.

Referred to: Committee on Agriculture, Energy and Ocean Resources.

No. 5 "SENATE RESOLUTION REQUESTING THAT THE UNITED STATES CONGRESS ESTABLISH A POSTAL INSPECTION PROGRAM TO HALT THE MAILING OF PARCELS CONTAINING FRUIT FLY INFESTED FRUIT."

Offered by: Senators Matsuura, Kobayashi, A., Solomon.

Referred to: Committee on Agriculture, Energy and Ocean Resources.

No. 6 "SENATE RESOLUTION URGING THE SHARING OF FINGERPRINT IDENTIFICATION INFORMATION THROUGH AUTOMATED FINGERPRINT INFORMATION SYSTEMS."

Offered by: Senators Matsuura, Cobb, Kobayashi, A.

Referred to: Committee on Judiciary.

INTRODUCTION OF SENATE BILLS

On motion by Senator Blair, seconded by Senator A. Kobayashi and carried, the following bills passed First Reading by title and were placed on the calendar for further consideration on Wednesday, January 27, 1988:

Senate Bills

No. 2143 "A BILL FOR AN ACT RELATING TO REFERENDUM FOR A CONVENTION CENTER."

Introduced by: Senators McMurdo, A. Kobayashi, B. Kobayashi, Aki, Ikeda, Cobb, Solomon, Menor and Chang.

No. 2144 "A BILL FOR AN ACT RELATING TO FINANCIAL PLANNERS."

Introduced by: Senators Cobb, Aki, Ikeda, Herkes, Fernandes Salling, A. Kobayashi, Tungpalan and McMurdo.

No. 2145 "A BILL FOR AN ACT RELATING TO FINANCIAL PLANNERS."

Introduced by: Senators Cobb, Aki, Ikeda, Herkes, Fernandes Salling, A. Kobayashi, Tungpalan and McMurdo.

No. 2146 "A BILL FOR AN ACT RELATING TO REAL PROPERTY LEASES."

Introduced by: Senators Cobb, Aki, Reed, Menor, Herkes, Ikeda, Solomon, Chang and McMurdo.

No. 2147 "A BILL FOR AN ACT RELATING TO LEASEHOLDS."

Introduced by: Senators Cobb, Aki, Reed, Menor, Herkes, Ikeda, McMurdo, Chang and Solomon.

No. 2148 "A BILL FOR AN ACT RELATING TO TRUSTS."

Introduced by: Senators Cobb, Menor, Tungpalan, Ikeda, Aki, McMurdo and Chang.

No. 2149 "A BILL FOR AN ACT RELATING TO DANGEROUS WEAPONS."

Introduced by: Senators Herkes, Cobb, Reed, George, Tungpalan, Menor and B. Kobayashi.

No. 2150 "A BILL FOR AN ACT RELATING TO DOGS."

Introduced by: Senators Herkes, Cobb, Ikeda, A. Kobayashi, Reed, George, Tungpalan, Holt, Menor, Young, Chang and B. Kobayashi.

No. 2151 "A BILL FOR AN ACT RELATING TO TAXATION."

Introduced by: Senator Blair.

No. 2152 "A BILL FOR AN ACT RELATING TO COUNTIES."

Introduced by: Senator Blair.

No. 2153 "A BILL FOR AN ACT RELATING TO OFFENSES AGAINST PUBLIC ADMINISTRATION."

Introduced by: Senator Blair.

No. 2154 "A BILL FOR AN ACT RELATING TO POLICE DEPARTMENTS."

Introduced by: Senator Blair.

No. 2155 "A BILL FOR AN ACT RELATING TO COUNTIES."

Introduced by: Senator Blair.

No. 2156 "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION."

Introduced by: Senators Herkes, George, Ikeda and Reed.

No. 2157 "A BILL FOR AN ACT RELATING TO DISCOVERY."

Introduced by: Senators Matsuura, B. Kobayashi and A. Kobayashi.

No. 2158 "A BILL FOR AN ACT RELATING TO PERSONAL INJURY."

Introduced by: Senators Matsuura, B. Kobayashi and A. Kobayashi.

No. 2159 "A BILL FOR AN ACT RELATING TO A PACIFIC BASIN TRADE CORPORATION."

Introduced by: Senators Matsuura, Young and A. Kobayashi.

No. 2160 "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE INSURANCE."

Introduced by: Senators Matsuura, Cobb and A. Kobayashi.

No. 2161 "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE INSURANCE."

Introduced by: Senators Matsuura, Hee and A. Kobayashi.

No. 2162 "A BILL FOR AN ACT RELATING TO FISHING."

Introduced by: Senators Matsuura, Holt and A. Kobayashi.

No. 2163 "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII."

Introduced by: Senators Matsuura, Solomon and Hagino.

No. 2164 "A BILL FOR AN ACT RELATING TO MEDICAL CARE PAYMENTS."

Introduced by: Senators McMurdo, Yamasaki, Blair, Matsuura, Young, Hagino, Herkes, Solomon and Fernandes Salling.

No. 2165 "A BILL FOR AN ACT RELATING TO HORIZONTAL PROPERTY REGIMES."

Introduced by: Senators A. Kobayashi, Chang, Young, Yamasaki, Aki and Ikeda.

No. 2166 "A BILL FOR AN ACT RELATING TO DISLOCATED WORKERS."

Introduced by: Senators A. Kobayashi, Matsuura, Young, Aki and Ikeda.

No. 2167 "A BILL FOR AN ACT RELATING TO INTOXICATING LIQUOR."

Introduced by: Senators A. Kobayashi, Matsuura, Chang, Young, Yamasaki, Aki and Ikeda.

No. 2168 "A BILL FOR AN ACT RELATING TO BUILDING DESIGN."

Introduced by: Senators A. Kobayashi, Matsuura, Young, Blair, Yamasaki, Aki, Ikeda and Chang.

CONFERENCE COMMITTEE REPORT

Senator Yamasaki, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate to House Bill No. 321, H.D. 1, presented a report (Conf. Com. Rep. No. 125) recommending that H.B. No. 321, H.D. 1, S.D. 1, 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. 125 and H.B. No. 321, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS," was deferred for a period of 48 hours.

ORDER OF THE DAY**THIRD READING****MATTER DEFERRED FROM MONDAY, JANUARY 25, 1988**

Senate Bill No. 603, S.D. 1:

By unanimous consent, action on S.B. No. 603, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DRUG PARAPHERNALIA," was deferred until Wednesday, January 27, 1988.

REFERRAL OF SENATE BILLS

The President made the following committee assignments of bills introduced on Monday, January 25, 1988:

Senate Bills Referred to:

No. 2105 Committee on Consumer Protection and Commerce

No. 2106 Committee on Housing, Hawaiian Programs and Natural Resources

No. 2107 Committee on Agriculture, Energy and Ocean Resources, then to the Committee on Ways and Means

No. 2108 Committee on Government Operations, then to the Committee on Ways and Means

No. 2109 Committee on Transportation, then to the Committee on Ways and Means

No. 2110 Committee on Housing, Hawaiian Programs and Natural Resources

No. 2111 Committee on Legislative Management, then to the Committee on Ways and Means

No. 2112 Committee on Judiciary

No. 2113 Committee on Government Operations, then to the Committee on Ways and Means

No. 2114 Committee on Consumer Protection and Commerce

No. 2115 Jointly to the Committee on Transportation and the Committee on Government Operations, then to the Committee on Ways and Means

No. 2116 Committee on Labor and Employment

No. 2117 Committee on Housing, Hawaiian Programs and Natural Resources

No. 2118 Committee on Judiciary

No. 2119 Committee on Judiciary

No. 2120 Committee on Housing, Hawaiian Programs and Natural Resources, then to the Committee on Ways and Means

No. 2121 Committee on Agriculture, Energy and Ocean Resources, then to the Committee on Judiciary

No. 2122 Committee on Agriculture, Energy and Ocean Resources, then to the Committee on Consumer Protection and Commerce

No. 2123 Committee on Labor and Employment

No. 2124 Committee on Judiciary

No. 2125 Committee on Judiciary, then to the Committee on Ways and Means

No. 2126 Jointly to the Committee on Consumer Protection and Commerce and the Committee on Government Operations

No. 2127 Committee on Government Operations, then to the Committee on Ways and Means

No. 2128 Committee on Transportation

No. 2129 Committee on Government Operations

No. 2130 Committee on Transportation

No. 2131 Committee on Transportation

No. 2132 Committee on Transportation, then to the Committee on Ways and Means

No. 2133 Committee on Transportation, then to the Committee on Ways and Means

No. 2134 Committee on Housing, Hawaiian Programs and Natural Resources

No. 2135 Committee on Judiciary

No. 2136 Committee on Transportation

No. 2137 Committee on Judiciary

No. 2138 Committee on Judiciary

- No. 2139 Committee on Government Operations
- No. 2140 Committee on Government Operations
- No. 2141 Committee on Government Operations, then to the Committee on Ways and Means
- No. 2142 Committee on Human Services, then to the Committee on Ways and Means

RE-REFERRAL OF SENATE BILLS

The President made the following committee assignments of Senate bills that were introduced:

Senate Bills Referred to:

- No. 2005 Jointly to the Committee on Transportation and the Committee on Government Operations, then to the Committee on Ways and Means
- No. 2019 Committee on Government Operations
- No. 2045 Committee on Agriculture, Energy and Ocean Resources, then to the Committee on Ways and Means
- No. 2056 Committee on Planning and Environment
- No. 2060 Committee on Legislative Management

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

"Mr. President, last week the Committee on Judiciary had a hearing on the proposed reorganization of the Judiciary by Arthur Young and Company. Throughout the hearing which began at 10:00 a.m. and concluded at 4:30 or 5:00, the Arthur Young (representatives) did their best in demonstrating the need to reorganize the Judiciary. In fact, during the hearing process, your committee in preparing for the hearing had asked the Judiciary through their Administrative Director of the Courts for certain kinds of information which would help us to see the bigger picture with respect to reorganizing the Judiciary. Specifically, what it would cost the taxpayers in terms of salaries to division heads and those hired on contract.

"Mr. President and members, I'm here to report to you that the Administrative Director has willfully and knowingly withheld from the Legislature what it cost the taxpayers for certain positions.

"Mr. President, in a letter dated January 22nd from the court staff attorney Abelina Shaw to me, she says and I quote:

"This is in response to your request for information on whether there is a legal basis for the Judiciary to withhold from the Legislature the names and specific salaries of Judiciary employees.

"The personnel rules of the Judiciary when duly promulgated under Chapter 91, have the force and effect of law. Section 22-20-6 of the personnel rules provides that all materials contained in an employee's personnel file shall be considered confidential."

"Mr. President and members, for your information, we did not ask for the reprimands, the suspensions or awards or honors that would be kept in a personnel file. We asked for what it cost the taxpayers to run the Judiciary. The answer was simple ... we will not tell you because we

promulgated rules which allows us to withhold such public taxpayers' expenditures from you.

"Mr. President and members, I am near completion of a letter to Chief Justice Lum and in the letter I remind the Chief Justice that ... 'As you know, the Constitution of this State provides, Section 8, Article VII, for legislative oversight of the budget by the Legislature. On that basis alone, there should be no question that we are entitled to the requested information. The constitutional basis for legislative review should also provide guidance in setting the framework for the statutory analysis performed by Miss Shaw. She, however, obviously did not proceed with guidance from the Constitution.'

"Mr. President and members, is it any wonder why the Judiciary is in a situation that they presently are with respect to the perception by the public?

"Mr. President, when the committee looked for information in the absence of the public data which this committee is entitled to, we looked in the BJ table set by the Legislature last year. We looked at a particular position, No. 24360, salary code SR-21-B and found that the legislative funding for that position was \$21,240. Mr. President and members, position 24360 is now being paid \$27,000 at a minimum and a maximum of \$43,000, twice as much as the Legislative intent.

"It would be fine, Mr. President and members, if, one, this were an aberration from the norm. It in fact is not. It is consistent with the apparent Judiciary administration's policy with respect to setting salaries. It is a violation of the legislative intent and more importantly the fact that they continue to withhold what it costs taxpayers to fund the Judiciary is indeed another slap in the face to the Judiciary and a slap in the face to the taxpayers of this state.

"Mr. President, inasmuch as this seems to be the most efficacious way of communicating to the Judiciary, I will be sending this letter to the Chief Justice and I would expect, not hope, expect that the Chief Justice is fully cognizant of the Constitution and is fully aware of what the taxpayers' expenditures are, and his responsibility as the chief jurist of this state to the legislative branch of government.

"Thank you, Mr. President."

At 12:18 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:22 o'clock p.m.

At 12:23 o'clock p.m., on motion by Senator Blair, seconded by Senator A. Kobayashi and carried, the Senate stood in recess subject to the call of the Chair.

ADJOURNMENT

At 12:00 o'clock midnight, the Senate adjourned until 11:30 o'clock a.m., Wednesday, January 27, 1988.