

THIRTY-FIRST DAY

Wednesday, March 15, 1995

The Senate of the Eighteenth Legislature of the State of Hawaii, Regular Session of 1995, convened at 11:33 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by the Reverend Kari Reiquam, Pohai Nani Good Samaritan Kauhale, after which the Roll was called showing all Senators present.

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

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 195 to 198) were read by the Clerk and were placed on file:

Gov. Msg. No. 195, dated February 14, 1995, transmitting a report, "Biennial Report on the Rental Housing Trust Fund Program," prepared by the Rental Housing Trust Fund Commission, Department of Budget and Finance, pursuant to Section 201F-5, HRS.

Gov. Msg. No. 196, dated March 3, 1995, transmitting the "Comprehensive Annual Financial Report of the State of Hawaii for the Fiscal Year Ended June 30, 1994," prepared by the Comptroller pursuant to Section 40-5, HRS.

Gov. Msg. No. 197, dated March 3, 1995, transmitting a report, "Waialua 2015: A Community Planning Project and Resources Atlas," prepared by the Office of State Planning, Office of the Governor, pursuant to Act 252, SLH 1994.

Gov. Msg. No. 198, dated March 6, 1995, transmitting the Annual Report of the Governor's Agriculture Coordinating Committee pursuant to Section 164-3, HRS.

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 385 to 389) were read by the Clerk and were disposed of as follows:

Hse. Com. No. 385, transmitting H.C.R. No. 140, which was adopted by the House of Representatives on March 13, 1995, was placed on file.

By unanimous consent, H.C.R. No. 140, entitled: "HOUSE CONCURRENT RESOLUTION RECOGNIZING KYUZO TOYAMA AS 'THE FATHER OF OKINAWAN IMMIGRATION'," was referred to the Committee on Higher Education, Culture, and Arts.

Hse. Com. No. 386, transmitting H.C.R. No. 163, which was adopted by the House of Representatives on March 14, 1995, was placed on file.

By unanimous consent, H.C.R. No. 163, entitled: "HOUSE CONCURRENT RESOLUTION SUPPORTING HAWAII'S DELEGATION TO THE 1995 WHITE HOUSE CONFERENCE ON AGING," was referred to the Committee on Human Services.

Hse. Com. No. 387, transmitting H.C.R. No. 164, which was adopted by the House of Representatives on March 14, 1995, was placed on file.

By unanimous consent, H.C.R. No. 164, entitled: "HOUSE CONCURRENT RESOLUTION SUPPORTING

THE 1995 MINI INTERFAITH WHITE HOUSE CONFERENCE ON AGING REPORT 'SPIRITUAL DIMENSIONS IN AGING'," was referred to the Committee on Human Services.

Hse. Com. No. 388, transmitting H.C.R. No. 165, which was adopted by the House of Representatives on March 14, 1995, was placed on file.

By unanimous consent, H.C.R. No. 165, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING HOUSE AND SENATE EMPLOYEES TO DONATE TO THE HAWAII FOODBANK STATE EMPLOYEES' FOOD DRIVE," was referred to the Committee on Human Services.

Hse. Com. No. 389, returning S.B. No. 1596, S.D. 1, which passed Third Reading in the House of Representatives on March 14, 1995, was placed on file.

SENATE CONCURRENT RESOLUTIONS

The following concurrent resolutions (S.C.R. Nos. 184 to 201) were read by the Clerk and were referred to committees:

Senate Concurrent Resolution

No. 184 "SENATE CONCURRENT RESOLUTION EXPRESSING SUPPORT FOR THE ESTABLISHMENT OF AN ALEXANDER J. CARTWRIGHT SPORTS MUSEUM."

Offered by: Senator Levin.

Referred to: Committee on Tourism and Recreation

No. 185 "SENATE CONCURRENT RESOLUTION PROMOTING MORE INDEPENDENT ACTION AND INVOLVEMENT BY CONSUMERS AND LOCAL AGENCIES IN DECISION-MAKING REGARDING ACCESS TO HEALTH CARE THAT IS UNIQUE TO THE ISLAND OF HAWAII BY ESTABLISHING NEIGHBORHOOD HEALTH BOARDS."

Offered by: Senator Levin.

Referred to: Committee on Health

No. 186 "SENATE CONCURRENT RESOLUTION REQUESTING THE STATE HEALTH PLANNING AND DEVELOPMENT AGENCY TO REPORT ON CONTINUED PLANS TO ADDRESS THE HEALTH AND SOCIAL PROBLEMS ON THE ISLAND OF HAWAII."

Offered by: Senator Levin.

Referred to: Jointly to the Committee on Health and the Committee on Human Services

No. 187 "SENATE CONCURRENT RESOLUTION REQUESTING THE AUDITOR TO CONDUCT A FINANCIAL AUDIT OF THE AIRPORT REVENUE FUND."

Offered by: Senator Tam.

Referred to: Committee on Transportation and Government Affairs, then to the Committee on Ways and Means

No. 188 "SENATE CONCURRENT RESOLUTION URGING THE VARIOUS PRINT AND ELECTRONIC MEDIA TO BETTER EDUCATE THEIR READERS AND LISTENERS ON SIGNIFICANT FACTORS AFFECTING THE RELIABILITY OF POLLS, AND TO RECONSIDER THEIR PRESENT PRACTICE OF PUBLISHING THE RESULTS OF MEDIA-SPONSORED POLITICAL SURVEYS IN THE DAYS IMMEDIATELY PRECEDING AN ELECTION."

Offered by: Senator Matsuura.

Referred to: Committee on Judiciary

No. 189 "SENATE CONCURRENT RESOLUTION REQUESTING A STUDY ON THE IMPLEMENTATION OF PARK USER FEES FOR STATE PARKS, OR ALTERNATIVE WAYS TO FUND THE MAINTENANCE AND PROTECTION OF STATE PARKS AND THEIR NATURAL RESOURCES."

Offered by: Senator Tam.

Referred to: Committee on Tourism and Recreation, then to the Committee on Ways and Means

No. 190 "SENATE CONCURRENT RESOLUTION REQUESTING THE STATE DIRECTOR OF FINANCE TO INVESTIGATE THE STATE'S AND THE COUNTIES' FUTURE ACTUARIAL LIABILITY FOR EMPLOYER RETIREE CONTRIBUTIONS TO THE PUBLIC EMPLOYEES HEALTH FUND."

Offered by: Senator Ikeda.

Referred to: Committee on Agriculture, Labor, and Employment, then to the Committee on Ways and Means

No. 191 "SENATE CONCURRENT RESOLUTION ENCOURAGING THE UNIVERSITY OF HAWAII AND THE DEPARTMENT OF EDUCATION TO INTEGRATE DOMESTIC VIOLENCE PREVENTION INTO THEIR CURRICULUM."

Offered by: Senators Baker, Solomon, Fukunaga, Fernandes Salling, Ikeda.

Referred to: Jointly to the Committee on Higher Education, Culture, and Arts and the Committee on Education

No. 192 "SENATE CONCURRENT RESOLUTION REQUESTING THE ESTABLISHMENT OF AN INTERIM STUDY GROUP FOR THE PURPOSES OF RECODIFICATION OF THE EDUCATION STATUTES."

Offered by: Senator Chumbley.

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

No. 193 "SENATE CONCURRENT RESOLUTION REQUESTING INTERAGENCY COMMITMENT TO REMOVING BARRIERS TO COMMUNITY-BASED EFFORTS TO ADDRESS ISSUES OF TEEN PREGNANCY PREVENTION AND TEEN PARENTING."

Offered by: Senator Chumbley.

Referred to: Committee on Human Services

No. 194 "SENATE CONCURRENT RESOLUTION ESTABLISHING A VIOLENCE PREVENTION COORDINATING COUNCIL TO ADDRESS THE

INTEGRATION OF VIOLENCE PREVENTION CURRICULA, PRE-KINDERGARTEN THROUGH TWELFTH GRADE, TO PREVENT VIOLENCE IN HAWAII'S HOMES, SCHOOLS, AND COMMUNITIES."

Offered by: Senators Chumbley, Grauly, Ige, McCartney.

Referred to: Committee on Education

No. 195 "SENATE CONCURRENT RESOLUTION EXPRESSING LEGISLATIVE SUPPORT FOR UNITED STATES SENATOR DANIEL K. AKAKA'S FEDERAL LEGISLATION (S. 2428), THE NATIONAL PARKS AIRSPACE MANAGEMENT ACT OF 1994."

Offered by: Senators Solomon, Fernandes Salling, Baker, Fukunaga.

Referred to: Committee on Transportation and Government Affairs

No. 196 "SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO REFRAIN FROM TAKING ANY RULEMAKING ACTION UNTIL THE HAWAII BOATERS COUNCIL, KEEHI LAGOON SMALL BOAT HARBOR ELECTED BOARD, ALA WAI MARINA BOARD, AND MARINA HARBOR BOARDS CAN PARTICIPATE IN THE REVIEW PROCESS."

Offered by: Senator Tam.

Referred to: Committee on Tourism and Recreation

No. 197 "SENATE CONCURRENT RESOLUTION REQUESTING THE LEGISLATIVE AUDITOR TO PREPARE AND SUBMIT TO THE LEGISLATURE A REPORT ASSESSING THE SOCIAL AND FINANCIAL IMPACT OF MANDATORY HEALTH INSURANCE COVERAGE FOR NATUROPATHIC SERVICES."

Offered by: Senator Bunda.

Referred to: Committee on Consumer Protection, then to the Committee on Ways and Means

No. 198 "SENATE CONCURRENT RESOLUTION CREATING A TASK FORCE TO STUDY POTENTIAL USES OF THE WAHIAWA RESERVOIR."

Offered by: Senator Bunda.

Referred to: Committee on Planning, Land and Water Use Management

No. 199 "SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF HEALTH TO ESTABLISH A KAIKA-WAIALUA WATERSHED MANAGEMENT COUNCIL TO CONDUCT A SPECIAL WATER RESOURCES PRESERVATION AND RECLAMATION PROJECT."

Offered by: Senator Bunda.

Referred to: Committee on Planning, Land and Water Use Management

No. 200 "SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF HEALTH TO ANALYZE THE IMPACTS CAUSED BY AGRICULTURAL ACTIVITIES IN THE KAIKA-WAIALUA BAY HYDROLOGICAL UNIT ON MARINE SPECIES IN THE KAIKA-WAIALUA BAY."

Offered by: Senator Bunda.

Referred to: Committee on Ecology and Environmental Protection

No. 201 "SENATE CONCURRENT RESOLUTION REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO CONDUCT A STUDY ON BINGO AS A MECHANISM FOR FUND RAISING IN HAWAII FOR NONPROFIT ORGANIZATIONS."

Offered by: Senator Ikeda, by request.

Referred to: Committee on Tourism and Recreation, then to the Committee on Ways and Means

SENATE RESOLUTIONS

The following resolutions (S.R. Nos. 163 to 177) were read by the Clerk and were referred to committees:

Senate Resolution

No. 163 "SENATE RESOLUTION EXPRESSING SUPPORT FOR THE ESTABLISHMENT OF AN ALEXANDER J. CARTWRIGHT SPORTS MUSEUM."

Offered by: Senator Levin.

Referred to: Committee on Tourism and Recreation

No. 164 "SENATE RESOLUTION PROMOTING MORE INDEPENDENT ACTION AND INVOLVEMENT BY CONSUMERS AND LOCAL AGENCIES IN DECISION-MAKING REGARDING ACCESS TO HEALTH CARE THAT IS UNIQUE TO THE ISLAND OF HAWAII BY ESTABLISHING NEIGHBORHOOD HEALTH BOARDS."

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Offered by: Senator Tam.

Referred to: Committee on Tourism and Recreation, then to the Committee on Ways and Means

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Offered by: Senator Ikeda.

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Offered by: Senators Baker, Solomon, Fukunaga, Fernandes Salling, Ikeda.

Referred to: Jointly to the Committee on Higher Education, Culture, and Arts and the Committee on Education

No. 170 "SENATE RESOLUTION URGING ALL HAWAII PUBLIC SCHOOLS TO IMPLEMENT A STUDENT CODE OF CONDUCT TO PROMOTE HARMONY, RESPECT, AND AMBITION IN THE PURSUIT OF ACADEMIC EXCELLENCE."

Offered by: Senator Chumbley.

Referred to: Committee on Education

No. 171 "SENATE RESOLUTION REQUESTING INTERAGENCY COMMITMENT TO REMOVING BARRIERS TO COMMUNITY-BASED EFFORTS TO ADDRESS ISSUES OF TEEN PREGNANCY PREVENTION AND TEEN PARENTING."

Offered by: Senator Chumbley.

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Offered by: Senators Solomon, Fernandes Salling, Baker, Fukunaga.

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RESOURCES TO REFRAIN FROM TAKING ANY RULEMAKING ACTION UNTIL THE HAWAII BOATERS COUNCIL, KEEHI LAGOON SMALL BOAT HARBOR ELECTED BOARD, ALA WAI MARINA BOARD, AND MARINA HARBOR BOARDS CAN PARTICIPATE IN THE REVIEW PROCESS."

Offered by: Senator Tam.

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Offered by: Senator Bunda.

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No. 177 "SENATE RESOLUTION REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO CONDUCT A STUDY ON BINGO AS A MECHANISM FOR FUND RAISING IN HAWAII FOR NONPROFIT ORGANIZATIONS."

Offered by: Senator Ikeda, by request.

Referred to: Committee on Tourism and Recreation, then to the Committee on Ways and Means

ORDER OF THE DAY

FINAL READING

S.B. No. 1682, H.D. 1:

On motion by Senator Ikeda, seconded by Senator Baker and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 1682 and S.B. No. 1682, H.D. 1, entitled: "A BILL FOR AN ACT MAKING EMERGENCY APPROPRIATIONS FOR THE PAYMENT PROGRAMS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

S.B. No. 1690, H.D. 1:

On motion by Senator Ikeda, seconded by Senator Baker and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 1690 and S.B. No. 1690, H.D. 1, entitled: "A BILL FOR AN ACT MAKING EMERGENCY APPROPRIATIONS FOR OPERATING EXPENSES FOR THE STATE MEDICAL ASSISTANCE PROGRAM," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Liu).

RE-REFERRAL OF HOUSE BILLS

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

House Bill Referred to:

No. 715, H.D. 1 Committee on Transportation and Government Affairs, then to the Committee on Judiciary

No. 1129 Jointly to the Committee on Agriculture, Labor, and Employment and the Committee on Higher Education, Culture, and Arts, then to the Committee on Ways and Means

No. 1373, H.D. 1 Committee on Tourism and Recreation, then to the Committee on Ways and Means

No. 2030, H.D. 1 Committee on Consumer Protection, then to the Committee on Ways and Means

No. 2143, H.D. 2 Jointly to the Committee on Transportation and Government Affairs and the Committee on Planning, Land and Water Use Management, then to the Committee on Ways and Means

Senator Solomon rose on a point of personal privilege and said:

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

"Mr. President, I just want to update you on the actions of your Committee on Executive and Judicial Appointments. You know, Mr. President, we did consider two of the governor's appointments last night. I felt that the hearing proceeded very, very well; I thought the dialogue was friendly; I thought the answers that both the nominees presented were acceptable. However, the committee did have some concerns about a 1995 legislative auditor's report which was directed to the director of DBEDT in which the auditor had brought to light the fact that Dr. Naya, in his new capacity, should be soliciting an opinion from the Ethics Commission concerning gifts from those agencies that have been or will be contracted with. This is in regards to \$152 million that was expended by DBEDT last year. Dr. Naya has assured the committee that he will be coming back to the committee with the appropriate information. This was not only a concern of your committee but we also had concerns from Common Cause and other interested groups.

"The other nominee was Mr. Kazu Hayashida to the Department of Transportation. We asked Kazu what I thought were good questions which he answered very well. However there was one area which the committee felt that we needed further information. He said they'd been developing an inner core within the department to handle a lot of the contracts that are now being given out to the private sector. We wanted to know more about the inner core, so we asked if he could come back to the committee to report on this. I gave him a deadline of April 8th when we will be rehearing Kathryn Matayoshi, as well as Lorraine Akiba. However, I did advise them that if they could come in earlier with the information we requested that we would consider an earlier time for their rehearing.

"Mr. President, it really concerns me as your chairperson, as to the governor's reaction in view of the committee's hard work. We have gone through the Legislative Auditor's report of recent years to see if the auditor had any concerns about the various departments. We have taken our responsibility very seriously. I wish to reiterate, Mr. President, that I have always felt that these

executive appointment hearings really belong to the respective subject matter committee chairmen because I have felt that they are the ones who will be working with these appointees. They are the ones who really have the questions. I did send a memo to all the Senators this session asking if you have any specific questions that you would like me to ask on your behalf that I would do so.

"I also sent the same memo to the Speaker of the House because I felt that, although the Senate had the confirmation prerogative, the House should have some input. The Speaker was to circulate the memo to his subject matter committee chairmen.

"So I think that as far as your committee is concerned, we have run the confirmation process in a very open manner. It's unfortunate that the governor has stated that the committee is getting involved with, I quote from an article in today's paper, 'little details.'

"Mr. President, I do have a formal response on this matter which I will be submitting for the journal. I just would like to remind the governor that the 'advise and consent' process is a vital aspect of maintaining the balance of power between the legislature and the executive administration. This means, Mr. President, presenting tough questions to the governor's appointees about how they will administer their departments. As for your committee, we have been impressed by the character and background of the governor's appointments who have come before us. However, we have unanswered questions regarding the prospective administration of certain departments. We have given these appointees opportunities to come back before your committee and to respond more fully to these unanswered questions.

"It has been declared, Mr. President, that the principle of the separation of powers represents probably the most important principle of government, declaring and guaranteeing the liberties of the people, and preventing the exercise of autocratic power.

"It has been stated that no maxim has been more universally received and cherished as the vital principle of freedom. And Mr. President, it's with these kind of thoughts that your committee will be conducting the rest of their hearings.

"Thank you."

ADJOURNMENT

At 11:45 o'clock a.m., on motion by Senator Ihara, seconded by Senator Liu and carried, the Senate adjourned until 11:30 o'clock a.m., Thursday, March 16, 1995.