

## TENTH DAY

Wednesday, February 4, 1998

The Senate of the Nineteenth Legislature of the State of Hawaii, Regular Session of 1998, convened at 11:36 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by Mr. Joe Onosai, Word of Life Christian Center, after which the Roll was called showing all Senators present with the exception of Senators Anderson and Sakamoto who were excused.

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

## MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 136 to 143) were read by the Clerk and were disposed of as follows:

Gov. Msg. No. 136, submitting for consideration and confirmation to the Barbers Point Naval Air Station Redevelopment Commission, the nominations of: JACK ENDO, term to expire June 30, 2000; and RANDOLPH G. MOORE, term to expire June 30, 2001, was referred to the Committee on Economic Development.

Gov. Msg. No. 137, submitting for consideration and confirmation to the Endangered Species Recovery Committee, the nominations of: FREDERICK R. WARSHAUER, term to expire June 30, 1999; and MARIE PATRICIA MORIN, Ph.D., term to expire June 30, 2001, was referred to the Committee on Health and Environment.

Gov. Msg. No. 138, submitting for consideration and confirmation to the Hawai'i Community Development Authority, the nomination of PATRICK T. KUBOTA, term to expire June 30, 1999, was referred to the Committee on Water, Land, and Hawaiian Affairs.

Gov. Msg. No. 139, submitting for consideration and confirmation to the Board of Trustees, Hawai'i Public Employees Health Fund, the nomination of JOHN H. RADCLIFFE, term to expire June 30, 1999, was referred to the Committee on Human Resources.

Gov. Msg. No. 140, submitting for consideration and confirmation to the Kaho'olawe Island Reserve Commission, the nomination of COLETTE P. MACHADO, term to expire June 30, 2001, was referred to the Committee on Water, Land, and Hawaiian Affairs.

Gov. Msg. No. 141, submitting for consideration and confirmation to the Kaneohe Bay Regional Council, the nomination of KURT K. MENCH, term to expire July 1, 1998, was referred to the Committee on Water, Land, and Hawaiian Affairs.

Gov. Msg. No. 142, submitting for consideration and confirmation to the Board of Directors, Natural Energy Laboratory of Hawai'i Authority, the nomination of THOMAS P. WHITTEMORE, terms to expire June 30, 1998 and June 30, 2002, was referred to the Committee on Economic Development.

Gov. Msg. No. 143, submitting for consideration and confirmation to the Public Utilities Commission, the nomination of RAE M. LOUI, term to expire June 30, 2002, was referred to the Committee on Commerce, Consumer Protection, and Information Technology.

## STANDING COMMITTEE REPORTS

Senators Tanaka and Taniguchi, for the Committee on Economic Development, presented a report (Stand. Com. Rep. No. 2001) recommending that S.B. No. 1008, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Ihara, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 1008, S.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR AGRICULTURAL RESEARCH AND DEVELOPMENT," passed Second Reading and was referred to the Committee on Ways and Means.

Senators Tanaka and Taniguchi, for the Committee on Economic Development, presented a report (Stand. Com. Rep. No. 2002) recommending that S.B. No. 2070 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Ihara, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 2070, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR DETECTION OF ALIEN PEST SPECIES AT THE STATE'S PORTS OF ENTRY," passed Second Reading and was referred to the Committee on Ways and Means.

Senators Tanaka and Taniguchi, for the Committee on Economic Development, presented a report (Stand. Com. Rep. No. 2003) recommending that S.B. No. 2085 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Ihara, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 2085, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE MAUI VACUUM COOLING PLANT," passed Second Reading and was referred to the Committee on Ways and Means.

Senators Tanaka and Taniguchi, for the Committee on Economic Development, presented a report (Stand. Com. Rep. No. 2004) recommending that S.B. No. 2093 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Ihara, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 2093, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR AGRICULTURE RESEARCH AND DEVELOPMENT," passed Second Reading and was referred to the Committee on Ways and Means.

Senators Tanaka and Taniguchi, for the Committee on Economic Development, presented a report (Stand. Com. Rep. No. 2005) recommending that S.B. No. 2094 pass Second Reading and be referred to the Committee on Judiciary.

On motion by Senator Ihara, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 2094, entitled: "A BILL FOR AN ACT RELATING TO THEFT," passed Second Reading and was referred to the Committee on Judiciary.

## ORDER OF THE DAY

## RE-REFERRAL OF SENATE BILLS

The Chair re-referred the following Senate bills that were introduced:

Senate Bill	Referred to:
No. 2055	Committee on Government Operations and Housing, then Jointly to the Committee on Commerce,

Consumer Protection, and Information Technology and the Committee on Ways and Means

No. 2157 Committee on Government Operations and Housing, then Jointly to the Committee on Commerce, Consumer Protection, and Information Technology and the Committee on Ways and Means

No. 2342 Jointly to the Committee on Commerce, Consumer Protection, and Information Technology and the Committee on Judiciary

No. 2374 Jointly to the Committee on Transportation and Intergovernmental Affairs, the Committee on Human Resources, the Committee on Judiciary and the Committee on Commerce, Consumer Protection, and Information Technology, then to the Committee on Ways and Means

No. 2386 Jointly to the Committee on Human Resources and the Committee on Health and Environment, then to the Committee on Ways and Means

No. 2495 Committee on Human Resources

No. 2762 Committee on Commerce, Consumer Protection, and Information Technology, then to the Committee on Judiciary

No. 2768 Jointly to the Committee on Human Resources and the Committee on Commerce, Consumer Protection, and Information Technology, then to the Committee on Ways and Means

No. 2802 Committee on Economic Development, then to the Committee on Commerce, Consumer Protection, and Information Technology

No. 2851 Jointly to the Committee on Health and Environment and the Committee on Commerce, Consumer Protection, and Information Technology, then to the Committee on Ways and Means

No. 2876 Jointly to the Committee on Human Resources and the Committee on Commerce, Consumer Protection, and Information Technology, then to the Committee on Ways and Means

No. 2891 Committee on Judiciary, then to the Committee on Commerce, Consumer Protection, and Information Technology

No. 2923 Committee on Commerce, Consumer Protection, and Information Technology, then to the Committee on Ways and Means

No. 2986 Jointly to the Committee on Human Resources and the Committee on Health and Environment, then to the Committee on Ways and Means

No. 3094 Committee on Transportation and Intergovernmental Affairs, then to the Committee on Commerce, Consumer Protection, and Information Technology

No. 3138 Jointly to the Committee on Government Operations and Housing, the Committee on Human Resources and the Committee on Commerce, Consumer Protection, and Information Technology, then to the Committee on Ways and Means

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

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

"Mr. President, I did want to, today, with the indulgence of the members, briefly discuss matters which arose at a Water, Land, and Hawaiian Affairs, ECD joint hearing yesterday, which was on S.B. No. 2063, Relating to Land Use.

"As you know, one of the proposals of the Economic Revitalization Task Force relates to the Land Use Commission. This bill, S.B. No. 2063, although it's not the ERTF bill, attempted to address those goals of the ERTF. The Senator from Maui mentioned a process beginning for the ERTF bills on the general excise tax. We fortunately do not have to do that this session, inasmuch as we have already received statewide comments on the proposal of the ERTF. As you recall, there was a joint legislative committee called, pursuant to H.C.R. No. 215, which required the House and Senate members to go statewide to address land use issues. And at that time, the task force proposal came out and we received tons of testimony, many of which were in opposition to the elimination of the Land Use Commission. Testimony from groups like OHA, Ka Lahui, Hawaiian Civic Clubs, Sierra Club, Sierra Club Legal Defense Fund, the Farm Bureau and various other organizations.

"This bill that we had before us yesterday, was crafted to address those concerns. We will not satisfy everyone. It was our intent yesterday because this bill is so important; because it does deal with the economy; because it does attempt to address the symbolic over-regulation that this state has been known for, we felt, the chairs of the WLH Committee, that it was important to move the bill out and on for further discussion, and quickly over to the House.

"There were requests from you and other members to defer action until we heard the ERTF bill, 2205. Mr. President, there was some resistance to that because we believe that the ERTF bill, which calls for the elimination of the Land Use Commission, requires a constitutional amendment repealing Article 11, Section 3, which says the state must regulate important agricultural lands. You cannot eliminate the Land Use Commission and return all of the agricultural lands to the counties. People may disagree with that interpretation, but it is an interpretation I believe is correct and we should not risk with a court action. It is a simple matter of having a constitutional amendment proposed. You were one of the creators or sponsors of the Economic Revitalization Task Force, and I believe it was the responsibility of those who would push that bill to have crafted a bill that is consistent, procedurally and substantively, with laws, rules and regulations. We don't have that with S.B. No. 2205.

"To have heard that bill, knowing it is constitutionally defective, would have caused the committee to engage in a Dionysian rite, merely for entertainment. And that's not what we are about.

"This bill is important. The issue is important. We've got to move a bill forward. I want to make one thing clear, Mr. President, because we did defer action, awaiting amendments from the members, to this bill. We want to make this bill as best we can before we send it over to the House.

"The co-chairs of the WLH Committee are committed to the goals of the ERTF when they called for the elimination of the Land Use Commission. And the goals, which are more important than the symbolic removal of the Commission, were eliminate duplication, eliminate over-regulation, streamline the process. And I will say here today, Mr. President, that is our goal. That is what we are committed to. And the amendments that come in to us by tomorrow, 3:00 p.m., will be looked at in its consistency with that goal. It does not do well for us to pass amendments to the chairs of the committee that do not meet those goals.

"Finally, Mr. President, if there are people in this body who want to eliminate the Land Use Commission, I would ask them to conform with the constitutional amendment. It would be

inappropriate to amend 2063 and insert a constitutional amendment. There are short form bills with the proper title, Relating to Agriculture, in the ECD Committee. If you wish to move such an amendment out, it is, of course, your prerogative or the prerogatives of the chairs. At that time it may be appropriate to hear S.B. No. 2205. So, that's your prerogative; that is for your leadership. But I do want to repeat, the chairs of the WLH Committee are committed to the goals of the ERTF. We will pursue those goals. It is there in 2063, and amendments that come in by 3:00 o'clock tomorrow will be judged according to those goals. If they do not meet those goals, we will not be recommending those amendments.

"Thank you, Mr. President."

Senator Solomon then rose and said:

"Mr. President, I just want to rise in support of my co-chairman's remarks, and I would like his remarks to be recorded as though they were my own. Thank you."

#### HOUSE COMMUNICATION

On motion by Senator Ihara, seconded by Senator Slom and carried unanimously, the Clerk was authorized to receive a House communication transmitting H.B. No. 2352, H.D. 1, relating to the authorization of funds for the expenses of the Legislature. In consequence thereof and subsequent to its recessing at 11:55 o'clock a.m., the Senate took the following action:

Hse. Com. No. 4, transmitting H.B. No. 2352, H.D. 1, which passed Third Reading in the House of Representatives on February 4, 1998, was placed on file.

On motion by Senator Ihara, seconded by Senator Slom and carried, H.B. No. 2352, H.D. 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS TO PROVIDE FOR THE EXPENSES OF THE LEGISLATURE, THE LEGISLATIVE AUDITOR, THE LEGISLATIVE REFERENCE BUREAU, AND THE OMBUDSMAN," passed First Reading by title and was referred to the Committee on Ways and Means.

#### ADJOURNMENT

At 1:00 o'clock p.m., the Senate adjourned until 11:30 o'clock a.m., Thursday, February 5, 1998.