

SEVENTEENTH DAY

Friday, February 13, 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 Deacon Bill McPeck, The Roman Catholic Church, Island of Hawaii, after which the Roll was called showing all Senators present.

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

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 162 to 167) were read by the Clerk and were placed on file:

Gov. Msg. No. 162, dated January 21, 1998, transmitting a report prepared by the Department of Health pursuant to Act 216, SLH 1997, relating to fees collected by the Department of Health.

Gov. Msg. No. 163, dated January 23, 1998, transmitting the 1997 Annual Report of the Hawaii Labor Relations Board, prepared by the Department of Labor and Industrial Relations pursuant to Section 89-5, HRS.

Gov. Msg. No. 164, dated January 23, 1998, transmitting a report, "Project Funded Staff Services Budget Report," prepared by the Hawaii Community Development Authority pursuant to Act 328, Section 155, SLH 1997.

Gov. Msg. No. 165, dated January 30, 1998, transmitting a report prepared by the Hawaii Health Systems Corporation, Maluhia, PACE Hawaii at Maluhia, pursuant to Act 338, SLH 1997, relating to Program of All Inclusive Care for the Elderly (PACE).

Gov. Msg. No. 166, dated February 2, 1998, transmitting a report, "Workshops to Assist Hawaii-Based Businesses to Become More Directly Involved in Pacific Islands Economic Trade and Development," prepared by the Department of Business, Economic Development, and Tourism, Business Development and Marketing Division, pursuant to Act 328, Section 6, SLH 1997.

Gov. Msg. No. 167, dated February 10, 1998, transmitting the Itemized Expenditure Report prepared by the Department of Human Resources Development, pursuant to Act 328, Section 132, SLH 1997.

DEPARTMENTAL COMMUNICATION

Dept. Com. No. 21, from the State Auditor dated February 11, 1998, transmitting a report, "Study of Proposed Mandatory Health Insurance Coverage for Contraceptive Services," (Report No. 98-7), was read by the Clerk and was placed on file.

SENATE CONCURRENT RESOLUTION

The following concurrent resolution (S.C.R. No. 31) was read by the Clerk and was deferred:

Senate Concurrent Resolution

No. 31 "SENATE CONCURRENT RESOLUTION REQUESTING THE DEVELOPMENT OF A RURAL HEALTH PLAN FOR THE DISTRICTS OF PUNA AND KA'U."

Offered by: Senator Levin.

SENATE RESOLUTION

The following resolution (S.R. No. 7) was read by the Clerk and was deferred:

Senate Resolution

No. 7 "SENATE RESOLUTION REQUESTING THE DEVELOPMENT OF A RURAL HEALTH PLAN FOR THE DISTRICTS OF PUNA AND KA'U."

Offered by: Senator Levin.

STANDING COMMITTEE REPORTS

Senators Aki and Tam, for the Committee on Education, presented a report (Stand. Com. Rep. No. 2026) recommending that S.B. No. 2277, as amended in S.D. 1, pass Second Reading and be recommitted to the Committee on Education.

On motion by Senator McCartney, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 2277, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Second Reading and was recommitted to the Committee on Education.

Senators Tanaka and Taniguchi, for the Committee on Economic Development, presented a report (Stand. Com. Rep. No. 2027) recommending that S.B. No. 2724, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Commerce, Consumer Protection, and Information Technology.

On motion by Senator McCartney, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 2724, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LABELING," passed Second Reading and was referred to the Committee on Commerce, Consumer Protection, and Information Technology.

Senators Tanaka and Taniguchi, for the Committee on Economic Development, presented a report (Stand. Com. Rep. No. 2028) recommending that S.B. No. 2802, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Commerce, Consumer Protection, and Information Technology.

On motion by Senator McCartney, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 2802, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE BUSINESS ACTION CENTER," passed Second Reading and was referred to the Committee on Commerce, Consumer Protection, and Information Technology.

Senators Chun Oakland and Kanno, jointly with Senators D. Ige and Metcalf, for the Committee on Human Resources and the Committee on Commerce, Consumer Protection, and Information Technology, presented a joint report (Stand. Com. Rep. No. 2029) recommending that S.B. No. 2386, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

Senator McCartney moved that Stand. Com. Rep. No. 2029 be adopted and S.B. No. 2386, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means, seconded by Senator Slom.

Senator Kanno rose and stated:

"Mr. President, in the haste of decking S.B. 2386, S.D. 1, this morning, relating to coordinated care organizations, we realized that there are two inadvertent items in the bill that we will be working with the Ways and Means Committee on addressing

when it goes to their committee. The first has to do with when an injured worker goes to a physician outside of the coordinated care organization. Our committees had intended to have the language say, that doctor would not have to follow the treatment guidelines and protocols of the CCO.

"Secondly, in the section having to do with case management, we had agreed upon language and the language was not completely put into the bill that is included before us.

"So as I have stated, we will work with the Ways and Means co-chairs to have those two inadvertent mistakes corrected at their committee.

"Thank you."

The motion was then put by the Chair and carried, the joint report of the Committees was adopted and S.B. No. 2386, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO COORDINATED CARE ORGANIZATIONS," passed Second Reading and was referred to the Committee on Ways and Means.

ORDER OF THE DAY

RE-REFERRAL OF SENATE BILLS

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

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| Senate Bill | Referred to: |
| No. 2277, S.D. 1 | Committee on Education, then to the Committee on Ways and Means |
| No. 2278 | Committee on Education, then to the Committee on Ways and Means |
| No. 2752 | Jointly to the Committee on Education and the Committee on Water, Land, and Hawaiian Affairs, then to the Committee on Ways and Means |

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

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

"Mr. President, I quote a front page article in the Advertiser. It stated that 'Senator Malama Solomon (D-Hawi, North Kona, Waimea) wondered aloud whether Cayetano picked for consolidation only departments that didn't have a lot of unionized public workers.' This quote, as printed, was taken out of context. This quote was a follow-up to questions posed by the CPI co-chairs and the Ways and Means co-chair which I will paraphrase: 'Is it not ironic that only a year ago, the Legislature requested a study to review consolidation of departments, and we were advised that the savings would not be worthwhile.' If the co-chair of CPI would like to correct my reiteration of his remarks, this would be the moment. The co-chair of Ways and Means followed up with recommendations that 'maybe the executive should follow other states' examples as they restructured their governments, they clustered similar administrative functions of various departments as determined by the clients they serve.' Mr. President, if the co-chair of Ways and Means would like to correct my reiteration of her remarks, this is the moment.

"After a lengthy response from the panel representing the executive (consisting of three: James Nakatani, Department of Agriculture; Katherine Matayoshi, Department of Commerce and Consumer Affairs; and Brad Mossman of DBEDT), we were given no hard facts as to why this bill proposed the consolidation of Consumer Affairs with the Department of Agriculture.

"Mr. President, your CPI committee gave them (the panel of three) every opportunity to provide the committee with some kind of criteria to justify how these two departments were chosen for consolidation. Picture a room full of independent farmers who are desperately fighting for their livelihood, trying to make sense of a shell of a bill that provided us with no vision, no answers as to how they would benefit from this proposal.

"I gave the panel of three the benefit of the doubt when I asked, Did you look at consolidating the administrative functions of the University of Hawaii, the Department of Education, or the administrative functions of the Department of Health and the Department of Human Services? I stated for the record that I had the privilege of chairing both of these committees, and if we are looking at a consolidation package to reduce a \$240 million shortfall, it would be more appropriate to look at these departments whose administration budgets are in the millions -- maybe a combined strength, Mr. President, of \$20 million -- whose administrative functions and clients are more compatible than those who are served by the Department of Agriculture and the Department of Consumer Affairs, whose combined administration budget would be approximately \$600,000.

"And I quote: 'I felt like Alice in Wonderland looking through the mirror.' With nothing left to ponder, I then uttered those remarks out loud only in defense, Mr. President, of the interests that I so proudly represent, who are not unionized and represent small businesses and families who have dedicated their lives for generations and who carry tremendous debts to bankroll their business. Moreover, I spoke in defense of the 5,000 small businesses who I'm proud to represent on the Big Island, who access the services of the Department of Consumer Affairs.

"Thank you."

Senator Slom then rose on a point of personal privilege and said:

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

"I would like to follow up on some of the remarks made by my colleague, the good Senator from the Big Island (everyone's favorite valentine), because I, too, was in that discussion yesterday. And it seemed to me, as I stated, that the rationale that was made for looking at the consolidation that was under discussion was not made from any business standpoint, was not made from any economic standpoint. And as a matter of fact, there was a great deal of interest and input from small businesses, in particular farmers and those in the agricultural community.

"When we look at the amount that was supposed to be saved, it was manini. When we heard from the agencies that were involved, they told us about how it would be difficult to move their desks, or how it would be difficult for people to go to another location other than the building they were in. And so I think, Mr. President, that if we're going to be talking about consolidation, we have to look at it and ask a lot more questions as did the good Senator from the Big Island.

"But, Mr. President, I'm even more startled because after that, last night I tried to get a good night's sleep and I was awakened this morning by the shrill cries of the governor. The governor calling on new ways of taxing our people and penalizing those non-profit organizations and agencies that for more than 70 years in this state have been recognized for the things that they have contributed, for the efficiencies that they have made, for the help that they have made to our community in the area of social welfare and education, and religion, and so forth. But our governor now says that if we tax these people and these organizations by removing their general excise tax exemption, this is one way of not raising the tax.

"Mr. President, I hear and I see a desperate man and a desperate philosophy that lacks a plan here. And to say that we're not raising the tax when the tax director says, if we get rid of these exemptions and tax these non-profits even more, we'll bring in hundreds of millions of dollars, I see this as a tax increase, and, further, a burden on our community. And the very people that we're calling on in the private sector to take the reins that government has either dropped or mismanaged so badly, to take the reins and help people that are closer to them, we are now going to punish them and penalize them?"

"Yesterday, my colleague from the Big Island was concerned because we are leaving people behind, not just Democrats but all of us. We have to share this responsibility. In this desperation by the governor today, even more people would be left behind.

"So, Mr. President, I call on our colleagues to sit down rationally. Heed the voices of those who know how to create jobs and who know what the economy and economic development and a sound business climate is all about, whether we're talking about consolidation or we're talking about tax plans. And let's not have a tax plan and ERTF du jour. Let's have a real plan by those people who make the contributions.

"Thank you, Mr. President."

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

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

"I agree wholeheartedly with what our floor leader said. The tax exemptions have been in since we were a territory, and they were first initiated in 1935. Good times and bad, we've never wanted to take away these exemptions from these people. And so I would like to have his words put in the Journal as though they were my own.

"And also, just for a bit of clarification, if I may, I heard what was said on the radio. And normally, whenever you get something from the governor, they say that we have spoken to the President of the Senate and the Speaker of the House, and I didn't hear that this time, so I guess they did not even clarify this with you folks on how we were going to treat these people.

"Thank you very much, Mr. President."

The Chair stated:

"That is correct."

At 11:51 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:02 o'clock p.m.

Senator M. Ige, for the Committee on Government Operations and Housing, requested a waiver of the 72-hour Notice of a Public Hearing on S.B. Nos. 2184, 2214, 2496, 3148 and 3201, and the Chair granted the waiver.

ADJOURNMENT

At 12:06 o'clock p.m., on motion by Senator McCartney, seconded by Senator Slom and carried, the Senate adjourned until 11:30 o'clock a.m., Tuesday, February 17, 1998.