

FOURTEENTH DAY

Tuesday, February 9, 1999

The Senate of the Twentieth Legislature of the State of Hawaii, Regular Session of 1999, convened at 11:38 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by the Reverend Steve Zurcher, Nanaikapono Protestant Church, after which the Roll was called showing all Senators present with the exception of Senator Matsuura who was excused.

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

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 175 to 178) were read by the Clerk and were placed on file:

Gov. Msg. No. 175, letter dated February 9, 1999, as provided in Section 9, Article VII of the Constitution of the State of Hawaii, requesting the immediate consideration and passage of S.B. No. 1283, which increases the appropriation ceiling for claims payments in the fiscal year 1999-2000 for the Unclaimed Property Program.

Gov. Msg. No. 176, letter dated February 4, 1999, as provided in Section 9, Article VII of the Constitution of the State of Hawaii, requesting the immediate consideration and passage of S.B. No. 1297, which provides for an emergency appropriation for court appointed counsel in fiscal year 1998-1999.

Gov. Msg. No. 177, letter dated February 4, 1999, as provided in Section 9, Article VII of the Constitution of the State of Hawaii, requesting the immediate consideration and passage of S.B. No. 1300, which appropriates \$2,132,595 in general funds in fiscal year 1998-1999 to pay the federal government its share of health insurance rebates and rate credits received by the general fund during fiscal year 1998-1999.

Gov. Msg. No. 178, letter dated February 4, 1999, as provided in Section 9, Article VII of the Constitution of the State of Hawaii, requesting the immediate consideration and passage of S.B. No. 1269, which makes an appropriation of \$11.1 million and 283 positions in fiscal year 1998-1999 for the Department of Education.

SENATE CONCURRENT RESOLUTION

The following concurrent resolution (S.C.R. No. 34) was read by the Clerk and was deferred:

Senate Concurrent Resolution

No. 34 "SENATE CONCURRENT RESOLUTION URGING THE SUPPORT FOR HOME ORGANIC PRODUCE COOPERATIVES."

Offered by: Senator Inouye.

STANDING COMMITTEE REPORTS

Senator Kawamoto, for the Committee on Transportation and Intergovernmental Affairs, presented a report (Stand. Com. Rep. No. 11) recommending that S.B. No. 58, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Senator Chun, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 58, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DRIVING UNDER THE INFLUENCE OF INTOXICATING

LIQUOR," passed Second Reading and was referred to the Committee on Judiciary.

Senator Kawamoto, for the Committee on Transportation and Intergovernmental Affairs, presented a report (Stand. Com. Rep. No. 12) recommending that S.B. No. 155, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Senator Chun, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 155, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLES," passed Second Reading and was referred to the Committee on Judiciary.

Senator Kawamoto, for the Committee on Transportation and Intergovernmental Affairs, presented a report (Stand. Com. Rep. No. 13) recommending that S.B. No. 162, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Senator Chun, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 162, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CHILD PASSENGER SAFETY," passed Second Reading and was referred to the Committee on Judiciary.

Senator Kawamoto, for the Committee on Transportation and Intergovernmental Affairs, presented a report (Stand. Com. Rep. No. 14) recommending that S.B. No. 660 pass Second Reading and be referred to the Committee on Judiciary.

On motion by Senator Chun, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 660, entitled: "A BILL FOR AN ACT RELATING TO DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR," passed Second Reading and was referred to the Committee on Judiciary.

Senator Kawamoto, for the Committee on Transportation and Intergovernmental Affairs, presented a report (Stand. Com. Rep. No. 15) recommending that S.B. No. 672 pass Second Reading and be referred to the Committee on Judiciary.

On motion by Senator Chun, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 672, entitled: "A BILL FOR AN ACT RELATING TO PASSENGER SAFETY," passed Second Reading and was referred to the Committee on Judiciary.

Senator Kawamoto, for the Committee on Transportation and Intergovernmental Affairs, presented a report (Stand. Com. Rep. No. 16) recommending that S.B. No. 685 pass Second Reading and be referred to the Committee on Judiciary.

On motion by Senator Chun, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 685, entitled: "A BILL FOR AN ACT RELATING TO REGISTRATION OF MOTOR VEHICLES UNDER TWO OR MORE NAMES," passed Second Reading and was referred to the Committee on Judiciary.

Senator Kawamoto, for the Committee on Transportation and Intergovernmental Affairs, presented a report (Stand. Com. Rep. No. 17) recommending that S.B. No. 687, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Senator Chun, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 687, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE DRIVER LICENSING," passed Second Reading and was referred to the Committee on Judiciary.

Senator Kawamoto, for the Committee on Transportation and Intergovernmental Affairs, presented a report (Stand. Com. Rep. No. 18) recommending that S.B. No. 913 pass Second Reading and be referred to the Committee on Judiciary.

On motion by Senator Chun, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 913, entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS BY MAIL," passed Second Reading and was referred to the Committee on Judiciary.

Senator Kawamoto, for the Committee on Transportation and Intergovernmental Affairs, presented a report (Stand. Com. Rep. No. 19) recommending that S.B. No. 922 pass Second Reading and be referred to the Committee on Judiciary.

On motion by Senator Chun, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 922, entitled: "A BILL FOR AN ACT RELATING TO UNAUTHORIZED CONTROL OF PROPELLED VEHICLE," passed Second Reading and was referred to the Committee on Judiciary.

Senator Kawamoto, for the Committee on Transportation and Intergovernmental Affairs, presented a report (Stand. Com. Rep. No. 20) recommending that S.B. No. 1164 pass Second Reading and be referred to the Committee on Judiciary.

On motion by Senator Chun, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 1164, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE DRIVER LICENSING," passed Second Reading and was referred to the Committee on Judiciary.

Senator Kawamoto, for the Committee on Transportation and Intergovernmental Affairs, presented a report (Stand. Com. Rep. No. 21) recommending that S.B. No. 392 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Chun, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 392, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Kawamoto, for the Committee on Transportation and Intergovernmental Affairs, presented a report (Stand. Com. Rep. No. 22) recommending that S.B. No. 494 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Chun, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 494, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE WOMEN IN MILITARY SERVICE FOR AMERICA MEMORIAL," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Kawamoto, for the Committee on Transportation and Intergovernmental Affairs, presented a report (Stand. Com. Rep. No. 23) recommending that S.B. No. 662, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Chun, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 662, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO REGISTRATION OF A TRAILER," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Kawamoto, for the majority of the Committee on Transportation and Intergovernmental Affairs, presented a report (Stand. Com. Rep. No. 24) recommending that S.B. No. 686, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Chun, seconded by Senator Slom and carried, the report of the majority of the Committee was adopted and S.B. No. 686, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO VEHICLE HIGHWAY BEAUTIFICATION FEE," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Kawamoto, for the Committee on Transportation and Intergovernmental Affairs, presented a report (Stand. Com. Rep. No. 25) recommending that S.B. No. 1166 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Chun, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 1166, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR HONOLULU HARBOR, OAHU," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Kawamoto, for the Committee on Transportation and Intergovernmental Affairs, presented a report (Stand. Com. Rep. No. 26) recommending that S.B. No. 1214 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Chun, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 1214, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII MARITIME AUTHORITY," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Kawamoto, for the Committee on Transportation and Intergovernmental Affairs, presented a report (Stand. Com. Rep. No. 27) recommending that S.B. No. 665, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Commerce and Consumer Protection.

On motion by Senator Chun, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 665, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MOTORCYCLE INSURANCE," passed Second Reading and was referred to the Committee on Commerce and Consumer Protection.

Senator Kawamoto, for the Committee on Transportation and Intergovernmental Affairs, presented a report (Stand. Com. Rep. No. 28) recommending that S.B. No. 666 pass Second Reading and be referred to the Committee on Education and Technology.

On motion by Senator Chun, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 666, entitled: "A BILL FOR AN ACT RELATING TO HIGHER EDUCATION," passed Second Reading and was referred to the Committee on Education and Technology.

Senator Kawamoto, for the Committee on Transportation and Intergovernmental Affairs, presented a report (Stand. Com. Rep. No. 29) recommending that S.B. No. 663, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Chun, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 663, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE REGISTRATIONS," passed Second Reading and was placed on the calendar for Third Reading on Thursday, February 11, 1999.

Senator Kawamoto, for the Committee on Transportation and Intergovernmental Affairs, presented a report (Stand. Com. Rep. No. 30) recommending that S.B. No. 664, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Chun, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 664, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL NUMBER PLATES," passed Second Reading and was placed on the calendar for Third Reading on Thursday, February 11, 1999.

Senator Kawamoto, for the Committee on Transportation and Intergovernmental Affairs, presented a report (Stand. Com. Rep. No. 31) recommending that S.B. No. 667 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Chun, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 667, entitled: "A BILL FOR AN ACT RELATING TO HIGHWAYS," passed Second Reading and was placed on the calendar for Third Reading on Wednesday, February 10, 1999.

Senator Kawamoto, for the Committee on Transportation and Intergovernmental Affairs, presented a report (Stand. Com. Rep. No. 32) recommending that S.B. No. 676, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Chun, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 676, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO COMMERCIAL DRIVER'S LICENSES," passed Second Reading and was placed on the calendar for Third Reading on Thursday, February 11, 1999.

Senator Kawamoto, for the Committee on Transportation and Intergovernmental Affairs, presented a report (Stand. Com. Rep. No. 33) recommending that S.B. No. 1216 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Chun, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 1216, entitled: "A BILL FOR AN ACT RELATING TO BICYCLING," passed Second Reading and was placed on the calendar for Third Reading on Wednesday, February 10, 1999.

Senator Inouye, for the Committee on Economic Development, presented a report (Stand. Com. Rep. No. 34) recommending that S.B. No. 480 pass Second Reading and be referred to the Committee on Commerce and Consumer Protection.

On motion by Senator Chun, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 480, entitled: "A BILL FOR AN ACT RELATING TO MEASUREMENT STANDARDS," passed Second Reading and was referred to the Committee on Commerce and Consumer Protection.

Senator Inouye, for the Committee on Economic Development, presented a report (Stand. Com. Rep. No. 35) recommending that S.B. No. 1060 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Chun, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 1060, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURAL LOANS," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Inouye, for the Committee on Economic Development, presented a report (Stand. Com. Rep. No. 36) recommending that S.B. No. 1061, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Chun, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 1061, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO IRRIGATION WATER DEVELOPMENT," passed Second

Reading and was referred to the Committee on Ways and Means.

Senator Inouye, for the majority of the Committee on Economic Development, presented a report (Stand. Com. Rep. No. 37) recommending that S.B. No. 1064 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Chun, seconded by Senator Slom and carried, the report of the majority of the Committee was adopted and S.B. No. 1064, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION FOR THE AGRIBUSINESS DEVELOPMENT CORPORATION," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Slom rose on a point of personal privilege as follows:

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

"Last night, the Senate Judiciary Committee held a public hearing that lasted more than 7-1/2 hours. First of all, I want to congratulate the co-chairs and committee members for a well conducted hearing. However, I think I should point out that it was a little unfortunate that we do what we do so many times here in the Legislature, and that is, we hold hearings at the convenience of the legislators and not at the convenience of the taxpayers and the public. There was a large crowd that came specifically to testify last night, and many of them were physically locked out of the door (the reason being given that they exceeded the fire rules), but we've had people stand before; we've had people sit in the aisles. And I think it's incumbent upon us that if we expect and anticipate a large crowd, that we might think very seriously about relocating the hearing to a separate location.

"Having said that, though, I would like to say that the questions that my colleagues asked and the issues that were brought up were both reassuring and troubling. Troubling, in that I think many of us who have been very concerned about the fundamental problems involving the integrity of our voting process were not reassured by the head of the Office of Election's inspections, and we certainly were not reassured by the comments by the Deputy Attorney Generals who said that even though the people of this State have a right to access the ballot which is given to them by the law, that they can't have that right until the Office of Elections goes ahead and develops rules. While the individual that's been involved in that has been involved for 18 years and there are still no rules. And I don't think that's any reason to deny people the rights that we have worked so hard to grant them.

"So, I think that much more has to be done, Mr. President. I think that the public still is very concerned, and they don't believe that we have done as much as we can do. But the Senate has taken the lead in this matter and I'm sure that we're going to continue and make some solid progress. But we have to, absolutely, restore the public's confidence in the voting process.

"Thank you, Mr. President."

Senator Chumbley also rose on a point of personal privilege and said:

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

"Mr. President, I think that I can speak on your behalf and all the majority members that we do agree with the previous speaker that we must restore public confidence to our voting process. I do want to clarify a couple of points that were made for the members and for those in our gallery today.

"The Judiciary Committee is one of inclusiveness. We invited every single Senator to participate in our hearing, and at

certain times we had up to 16 Senators there. We are inclusive in that we gave everyone an opportunity to testify, Mr. President. We stayed until approximately 1:35 this morning and every single person who wanted to provide comments to the committee, regardless if in writing or orally, was given that opportunity.

"In addition, as legislators we are not above the laws, and even though our building does have fire codes which limit occupancy, we try to accommodate everyone. And in an attempt to do so, we installed TVs with monitors that had direct access to the proceedings of the hearing in two locations -- one in Conference Room 225 and one directly outside in the hall, Mr. President. So I would say that your Committee did everything possible to accommodate all those who wanted to testify and all those who wanted to just watch.

"I would like to thank all the members of the Judiciary Committee and the members of the Senate who stayed until the very end. Everyone was given a chance to participate and that's the way democracy works.

"Thank you."

Senator Anderson, also rising on a point of personal privilege, then stated:

"A point of personal privilege, Mr. President.

"I didn't plan on saying anything, but since we were saying that we gave everybody a chance to do anything, seven hours sitting on a very hard seat for the people that were going to testify, I don't think was fair and equitable. I don't think it's fair and equitable that we locked people out because we were going to go above the fire code. We have an auditorium. The seats there are very comfortable. If you're going to spend seven hours sitting down to testify to wait, at least you have a chance to be a lot more comfortable, as we are when we have our seating.

"Another thing, we shouldn't have said that we weren't going to have room in 211. We could have had the auditorium. It was free, to the best of my knowledge. We knew ahead of time that there was going to be a large group because the newspapers, the radio and television, all the media, have been concerned about what's happening in the voting. And I think we all anticipated a large crowd. So I don't know if we really were as open as we're trying to make everyone think we were. I think we have a problem when we don't try to accommodate the people that paid for this building, that we make them feel a lot more comfortable in the secured building that they paid for, and we owe them that much.

"Thank you very much, Mr. President."

Senator Iwase then rose on a point of personal privilege as follows:

"Mr. President, I'm rising on a point of personal privilege -- on a different subject matter, Mr. President, perhaps not as serious, but no less important.

"Mr. President, I'm sure some of my colleagues here in the Senate know that I'm a great fan of the Beatles. So, this morning, much to my surprise and enjoyment, I opened the front page of the sports section and saw what I thought was a Beatle in a dancing position. And on closer inspection, as Senators do (we learn to inspect things closely), I noted that it wasn't a Beatle, but it was our own Ben Villaflor. And we will be honoring Benjamin Villaflor, Ben Villaflor, in our own way, but I thought it was very appropriate, and I was very proud that the *Advertiser* saw fit to write a full-page article about the former junior lightweight champion.

"By the way, for those of us who don't know the Beatles, like the young Senator, co-chair of the Ways and Means

Committee, the Senator from Makiki, and not the follicly challenged Senator from Ka'u, the Beatles were a singing group. And I'd like to read from the *Advertiser* because it has some really nice words about our Ben Villaflor.

'He will be among the 22 newest inductees, former champions, Olympians . . . honored in ceremonies at the Sheraton Waikiki tonight.

'But few will have come as far as the 46-year-old Villaflor. His was a journey from Zamboanga to Hawaii If it wasn't for boxing, Villaflor, now the Hawaii Senate's sergeant-at-arms, said, "I'd still be working on a rubber plantation from 5 a.m. to 5 p.m."

As Senate Sergeant-at-arms, I don't know what the difference is in working on a rubber plantation from 5 a.m. to 5 p.m., but it's different. (Laughter.) No snakes in the trees. (More laughter.) It goes on:

'These days, two decades removed from the ring and a father of three, two of them college graduates, and that's a credit to Ben 'it is hard to tell that Villaflor was once a feared puncher.' And then he gets descriptive and personal about our Ben. 'Only his flattened nose . . .' (Laughter.) I don't know, Ben, about Beatles with a flattened nose. 'Only his flattened nose and a few scars hint at the violent profession he once dominated. Certainly his modesty prevents him from bringing it up unless he is asked about it.

'In that, Villaflor was a rarity in his line of work, someone who was as personable as he was punishing, sensitive as he was strong. So much so that his rival, Shibata, was moved to say that Villaflor was the fighter he most admired.'

"Mr. President, if I may borrow from the line of another British song writer about a different subject, of course, but I think the title of the song is appropriate for him tonight, Rod Stewart's line 'Tonight's the night, it's going to be all right.' I'd like to ask the Senate to join me in congratulating Ben Villaflor, Mr. President." (Mr. Villaflor received a standing ovation and a resounding round of applause from the Senators and staff members.)

At 11:57 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:59 o'clock a.m.

ADJOURNMENT

At 12:00 o'clock noon, on motion by Senator Chun, seconded by Senator Slom and carried, the Senate adjourned until 11:30 o'clock a.m., Wednesday, February 10, 1999.