

NINETEENTH DAY

Wednesday, February 16, 2005

The Senate of the Twenty-Third Legislature of the State of Hawaii, Regular Session of 2005, convened at 11:47 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by the Honorable Clarence K. Nishihara, Hawaii State Senate, after which the Roll was called showing all Senators present.

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

STANDING COMMITTEE REPORTS

Senators Kokubun and Ige, for the Committee on Water, Land, and Agriculture and the Committee on Intergovernmental Affairs, presented a joint report (Stand. Com. Rep. No. 101) recommending that S.B. No. 1587 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Hee, seconded by Senator Hogue and carried, the joint report of the Committees was adopted and S.B. No. 1587, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR AGRICULTURAL INFRASTRUCTURE," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Baker, for the Committee on Health, presented a report (Stand. Com. Rep. No. 102) recommending that S.B. No. 469, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 469, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAX CREDITS FOR MEDICAL STUDENT LOANS," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Baker, for the Committee on Health, presented a report (Stand. Com. Rep. No. 103) recommending that S.B. No. 1230 pass Second Reading and be referred to the Committee on Commerce, Consumer Protection and Housing.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 1230, entitled: "A BILL FOR AN ACT RELATING TO DENTAL INSURANCE," passed Second Reading and was referred to the Committee on Commerce, Consumer Protection and Housing.

Senator Baker, for the Committee on Health, presented a report (Stand. Com. Rep. No. 104) recommending that S.B. No. 861, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 861, S.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR SEXUAL ASSAULT SERVICES," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Baker, for the Committee on Health, presented a report (Stand. Com. Rep. No. 105) recommending that S.B. No. 1227, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 1227, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HIV/AIDS ASSISTANCE," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Chun Oakland, for the majority of the Committee on Human Services, presented a report (Stand. Com. Rep. No. 106) recommending that S.B. No. 560 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the majority of the Committee was adopted and S.B. No. 560, entitled: "A BILL FOR AN ACT RELATING TO THE ELDERLY," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Chun Oakland, for the Committee on Human Services, presented a report (Stand. Com. Rep. No. 107) recommending that S.B. No. 561 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 561, entitled: "A BILL FOR AN ACT RELATING TO CAREGIVER COORDINATOR POSITION," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Chun Oakland, for the Committee on Human Services, presented a report (Stand. Com. Rep. No. 108) recommending that S.B. No. 826 pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 826, entitled: "A BILL FOR AN ACT RELATING TO CHILD ABUSE," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs.

Senator Chun Oakland, for the Committee on Human Services, presented a report (Stand. Com. Rep. No. 109) recommending that S.B. No. 1021 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 1021, entitled: "A BILL FOR AN ACT RELATING TO HUMAN SERVICES," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Chun Oakland, for the majority of the Committee on Human Services, presented a report (Stand. Com. Rep. No. 110) recommending that S.B. No. 1022 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the majority of the Committee was adopted and S.B. No. 1022, entitled: "A BILL FOR AN ACT RELATING TO HUMAN SERVICES," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Chun Oakland, for the Committee on Human Services, presented a report (Stand. Com. Rep. No. 111) recommending that S.B. No. 1103, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 1103, S.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION TO HALE MAHAOLU FOR PERSONAL CARE PROGRAM," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Chun Oakland, for the Committee on Human Services, presented a report (Stand. Com. Rep. No. 112) recommending that S.B. No. 1202 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 1202, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR SENIOR CENTERS," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Chun Oakland, for the majority of the Committee on Human Services, presented a report (Stand. Com. Rep. No. 113) recommending that S.B. No. 1213 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the majority of the Committee was adopted and S.B. No. 1213, entitled: "A BILL FOR AN ACT RELATING TO ADULT RESIDENTIAL CARE HOMES," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Chun Oakland, for the majority of the Committee on Human Services, presented a report (Stand. Com. Rep. No. 114) recommending that S.B. No. 1208, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the majority of the Committee was adopted and S.B. No. 1208, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE AT-HOME INFANT CHILD CARE PROGRAM," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Chun Oakland, for the majority of the Committee on Human Services, presented a report (Stand. Com. Rep. No. 115) recommending that S.B. No. 1519, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the majority of the Committee was adopted and S.B. No. 1519, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FOSTER CARE HOMES," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Chun Oakland, for the majority of the Committee on Human Services, presented a report (Stand. Com. Rep. No. 116) recommending that S.B. No. 1750, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the majority of the Committee was adopted and S.B. No. 1750, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LEGISLATIVE OVERSIGHT OF TEMPORARY ASSISTANCE FOR NEEDY FAMILIES PROGRAMS AND FUNDING EXPENDITURES," passed

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

ORDER OF THE DAY

RE-REFERRAL OF SENATE BILL

The Chair re-referred the following Senate bill that was introduced:

Senate Bill	Referred to:
No. 527	Jointly to the Committee on Health and the Committee on Human Services, then to the Committee on Ways and Means

THIRD READING

S.B. No. 1150:

Senator Kokubun moved that S.B. No. 1150, having been read throughout, pass Third Reading, seconded by Senator Hooser.

Senator Baker rose in opposition to the measure and said:

"Mr. President, I rise in opposition to this measure.

"Mr. President, this bill only went to Water, Land, and Agriculture. It did not come to the Health Committee, and yet in testimony by the Department of Agriculture, they noted that there have been a number of outbreaks of food-borne illness traceable to raw milk.

"I don't think that the health impacts of this particular measure have been thoroughly explored and discussed, and I think there are definitely consumer damages that could result from the sale of raw milk for human consumption. Therefore, I rise to oppose this measure.

"Thank you."

Senator Kokubun rose in support of the measure and said:

"Mr. President, I rise in support of S.B. No. 1150.

"Mr. President, as the previous speaker indicated, yes there was opposition from the Department of Agriculture, but I think they could not really document the exact incidences of food poisoning or ill effects caused by the consumption of raw milk.

"I would also point out, Mr. President, that this measure was supported by many, many individuals here in Hawaii, and in fact other organizations as well. The fact of the matter is that over half, I think in 26 states in the country, raw milk and raw milk products are allowed to be sold.

"I would also like to point out, colleagues, that the Department of Agriculture is charged in this bill to develop rules and regulations to guide the sale of raw milk products. So I think at that point in time, through the Administrative Rule process, they will be able to provide the necessary safeguards with respect to the sale of raw milk and raw milk products.

"Thank you, Mr. President."

Senator Ihara rose and said:

"Mr. President, please note my 'reservations' for the reasons stated by the Health Chair."

The Chair so ordered.

Senators Chun Oakland, Kim and Ige requested their votes be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, S.B. No. 1150, entitled: "A BILL FOR AN ACT RELATING TO DAIRY PRODUCTS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Baker).

S.B. No. 1796, S.D. 1:

Senator Hanabusa moved that S.B. No. 1796, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Hee.

Senator Slom rose in opposition to the measure and stated:

"Mr. President, I rise in opposition to this bill.

"While I support drug treatment programs and while we have passed numerous measures in this behalf in past years, one of the problems that we have which was brought out by the prosecuting attorney and law enforcement officials is the fact that if we keep expunging records, there is a difference between arrest and conviction records. While this bill with its S.D. 1 adds additional requirements for a drug-free individual, it talks about convictions but it doesn't talk about arrests. And in the communities that I'm involved with, people are concerned, because whenever someone is arrested, they find that there were prior arrests – 30, 50, 70, 100 prior arrests. They may not have resulted in convictions or they may still be going through the pipeline, but that has not occurred. And so, again I think that we are over balancing treatment versus punishment or at least standing up for the law.

"The other problem that I have with this bill is that it affords to defendants the same rights that were passed in our legislation prior to that time, but there is no starting time. So in other words, it could have been for convictions or incidences two years before the legislation was passed or five years or ten years or twenty years. There is no part of that.

"So I have a problem with the date. I have a problem with the position that's been taken by law enforcement that we're not supporting, and I have a problem with adding additional people that we're expunging the records. So I'll be voting 'no.'

"Thank you."

Senator Nishihara requested his vote be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, S.B. No. 1796, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE DISPOSITION OF CONVICTED DEFENDANTS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 4 (Hemmings, Hogue, Slom, Trimble).

S.B. No. 1249:

On motion by Senator Sakamoto, seconded by Senator Hooser and carried, S.B. No. 1249, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

S.B. No. 1253, S.D. 1:

On motion by Senator Sakamoto, seconded by Senator Hooser and carried, S.B. No. 1253, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Senator Baker, Chair of the Committee on Health, requested a waiver of the notice requirement pursuant to Senate Rule 21 for S.B. No. 527.

Senator Baker noted:

"Mr. President, the purpose of the proposed S.D. is to appropriate funds for statewide human service and health programs."

The Chair then granted the waiver.

Senator Chun Oakland, Chair of the Committee on Human Services, requested a waiver of the notice requirement pursuant to Senate Rule 21 for S.B. No. 803.

Senator Chun Oakland noted:

"Mr. President, this bill allows the Office of Youth Services to obtain criminal history and child abuse record information on employees and volunteers."

The Chair then granted the waiver.

Senator Menor, Chair of the Committee on Commerce, Consumer Protection and Housing, requested a waiver of the notice requirement pursuant to Senate Rule 21 for S.B. No. 1223.

Senator Menor noted:

"Mr. President, the bill relates to the imposition of a service charge for dishonored checks."

The Chair then granted the waiver.

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

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

"Mr. President, I just would like to point out Rule 21 and encourage my colleagues to follow the Rule. I understand that a lot of these waivers have or all of them have good reasons. I'm not doubting them. In our Rule it says that these notice requirements may be waived with approval of the President upon good cause shown, and I'm certain that there are good causes for each of these bills, and I would like to request that the future waivers give some indication of the reason for the request for waiver.

"Thank you."

ADJOURNMENT

At 12:00 o'clock noon, on motion by Senator Hee, seconded by Senator Hogue and carried, the Senate adjourned until 11:30 o'clock a.m., Thursday, February 17, 2005.