

## THIRTY-FIFTH DAY

Monday, March 22, 1999

The Senate of the Twentieth Legislature of the State of Hawaii, Regular Session of 1999, convened at 11:35 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by Pastor Derald Skinner, Calvary Chapel, Pearl Harbor, after which the Roll was called showing all Senators present with the exception of Senator Ihara who was excused.

The President announced that he had read and approved the Journal of the Thirty-Fourth Day.

Senators Chumbley and Matsunaga introduced the following members of the State Commission to Promote Uniform Legislation: Hiroshi Sakai, chair; Lani Ewart, vice-chair; Robert Toyofuku; Elizabeth Kent; Ken Takayama; Maurice Kato; and John Chanin.

At 11:47 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:00 o'clock noon.

## MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 249 and 250) were read by the Clerk and were placed on file:

Gov. Msg. No. 249, dated March 12, 1999, transmitting a report prepared by the Department of Human Services pursuant to H.C.R. No. 121 (1998), on the development of a universal health coverage plan for all Hawaii's children.

Gov. Msg. No. 250, dated March 10, 1999, transmitting the 1998 Annual Report of the Medical Claims Conciliation Panel and the Design Professional Conciliation Panel, pursuant to Sections 672-12 and 271-20.

## DEPARTMENTAL COMMUNICATIONS

The following communications (Dept. Com. Nos. 26 to 29) were read by the Clerk and were placed on file:

Dept. Com. No. 26, from the State Auditor dated March 17, 1999, transmitting a report, "Study on the Privatization of the Child and Adolescent Mental Health Program," (Report No. 99-12).

Dept. Com. No. 27, from the State Auditor dated March 18, 1999, transmitting a report, "Follow-Up to the Study of Revenue Entitlements to the Department of Hawaiian Home Lands," (Report No. 99-13).

Dept. Com. No. 28, from the State Auditor dated March 19, 1999, transmitting a report, "Sunrise Analysis of a Proposal to Regulate Certified Professional Midwives," (Report No. 99-14).

Dept. Com. No. 29, from the Department of Labor and Industrial Relations, Office of Community Services, dated March 19, 1999, transmitting its 1999 Annual Report.

## HOUSE COMMUNICATION

Hse. Com. No. 391, returning S.B. No. 1639, S.D. 1, which passed Third Reading in the House of Representatives on March 19, 1999, was read by the Clerk and placed on file.

## STANDING COMMITTEE REPORTS

Senator Hanabusa, for the Committee on Water, Land, and Hawaiian Affairs, presented a report (Stand Com. Rep. No.

925) recommending that S.C.R. No. 55, as amended in S.D. 1, 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.C.R. No. 55, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE AUDITOR TO CONDUCT A MANAGEMENT AUDIT OF THE DEPARTMENT OF LAND AND NATURAL RESOURCES," was referred to the Committee on Ways and Means.

Senator Hanabusa, for the Committee on Water, Land, and Hawaiian Affairs, presented a report (Stand Com. Rep. No. 926) recommending that S.C.R. No. 57, as amended in S.D. 1, 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.C.R. No. 57, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING AN AUDIT OF VARIOUS EXECUTIVE DEPARTMENTS REGARDING CEDED LAND REVENUES," 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. 927) recommending that S.C.R. No. 62, as amended in S.D. 1, 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.C.R. No. 62, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION URGING THE UNITED STATES SENATE TO RATIFY THE UNITED NATIONS CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN," was referred to the Committee on Judiciary.

Senator Kawamoto, for the Committee on Transportation and Intergovernmental Affairs, presented a report (Stand Com. Rep. No. 928) recommending that S.R. No. 27, as amended in S.D. 1, 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.R. No. 27, S.D. 1, entitled: "SENATE RESOLUTION URGING THE UNITED STATES SENATE TO RATIFY THE UNITED NATIONS CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN," was referred to the Committee on Judiciary.

Senator Hanabusa, for the Committee on Water, Land, and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 929) recommending that H.B. No. 423, H.D. 1, 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 H.B. No. 423, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION TO MATCH FEDERAL FUNDS FOR THE HAWAII FORESTRY AND COMMUNITIES INITIATIVE," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Hanabusa, for the Committee on Water, Land, and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 930) recommending that H.B. No. 1095, H.D. 1, 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 H.B. No.

1095, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE REVIEW OF THE SALARIES OF THE TRUSTEES OF THE OFFICE OF HAWAIIAN AFFAIRS," 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. 931) recommending that H.B. No. 1, H.D. 1, 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 H.B. No. 1, H.D. 1, 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. 932) recommending that H.B. No. 5, H.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 H.B. No. 5, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATEWIDE TRAFFIC CODE," 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. 933) recommending that H.B. No. 212, H.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 H.B. No. 212, H.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. 934) recommending that H.B. No. 715 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 H.B. No. 715, entitled: "A BILL FOR AN ACT RELATING TO REGISTRATION OF 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. 935) recommending that H.B. No. 849, H.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 H.B. No. 849, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL FACILITY REVENUE BONDS FOR AIRPORTS," 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. 936) recommending that H.B. No. 1457 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 H.B. No. 1457, entitled: "A BILL FOR AN ACT RELATING TO THE TRAFFIC CODE," 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. 937) recommending that H.B. No. 7, 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 H.B. No. 7, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLES," passed Second Reading and was placed on the calendar for Third Reading on Wednesday, March 24, 1999.

Senator Hanabusa, for the Committee on Water, Land, and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 938) recommending that H.B. No. 1188, 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 H.B. No. 1188, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE WATER CODE," passed Second Reading and was placed on the calendar for Third Reading on Wednesday, March 24, 1999.

Senator Inouye, for the Committee on Economic Development, presented a report (Stand. Com. Rep. No. 939) recommending that H.B. No. 898, H.D. 2, 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 H.B. No. 898, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE ESTABLISHMENT OF AN AGRICULTURAL WATER SYSTEM FOR UPCOUNTRY MAUI," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Hanabusa, for the Committee on Water, Land, and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 940) recommending that H.B. No. 1172, H.D. 2, 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 H.B. No. 1172, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE BUREAU OF CONVEYANCES," passed Second Reading and was referred to the Committee on Ways and Means.

Senators Kanno and Taniguchi, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 941) recommending that H.B. No. 1064, H.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 H.B. No. 1064, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HAWAII HURRICANE RELIEF FUND BONDS," passed Second Reading and was referred to the Committee on Ways and Means.

Senators Kanno and Taniguchi, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 942) recommending that H.B. No. 792, H.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 H.B. No. 792, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO

BAIL BONDS," passed Second Reading and was placed on the calendar for Third Reading on Wednesday, March 24, 1999.

### ORDER OF THE DAY

#### ADVISE AND CONSENT

Stand. Com. Rep. No. 919 (Gov. Msg. No. 186):

Senator Hanabusa moved that Stand. Com. Rep. No. 919 be received and placed on file, seconded by Senator Tanaka and carried.

Senator Hanabusa then moved that the Senate advise and consent to the nominations to the Hawai'i Community Development Authority of the following:

DOUGLAS WON, term to expire June 30, 2002; and

LYNNE WATERS, term to expire June 30, 2003,

seconded by Senator Tanaka.

The motion was put by the Chair and carried on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Ihara).

Stand. Com. Rep. No. 920 (Gov. Msg. No. 189):

Senator Hanabusa moved that Stand. Com. Rep. No. 920 be received and placed on file, seconded by Senator Tanaka and carried.

Senator Hanabusa then moved that the Senate advise and consent to the nominations to the Hawaiian Homes Commission of the following:

HENRY CHO Sr., term to expire June 30, 2001; and

JOHN A.H. TOMOSO, term to expire June 30, 2003,

seconded by Senator Tanaka.

The motion was put by the Chair and carried on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Ihara).

Stand. Com. Rep. No. 921 (Gov. Msg. No. 220):

Senator Hanabusa moved that Stand. Com. Rep. No. 921 be received and placed on file, seconded by Senator Tanaka and carried.

Senator Hanabusa then moved that the Senate advise and consent to the nomination of JAMES K. TSUGAWA to the Hawai'i Community Development Authority, term to expire June 30, 2000, seconded by Senator Tanaka.

The motion was put by the Chair and carried on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Ihara).

Stand. Com. Rep. No. 922 (Gov. Msg. No. 221):

By unanimous consent, action on Stand. Com. Rep. No. 922 and Gov. Msg. No. 221 was deferred until Wednesday, March 24, 1999.

Stand. Com. Rep. No. 923 (Gov. Msg. No. 223):

Senator Hanabusa moved that Stand. Com. Rep. No. 923 be received and placed on file, seconded by Senator Tanaka and carried.

Senator Hanabusa then moved that the Senate advise and consent to the nomination of REGINALD E. DAVID to the Natural Area Reserves System Commission, term to expire June 30, 2000, seconded by Senator Tanaka.

The motion was put by the Chair and carried on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Ihara).

### THIRD READING

H.B. No. 1151, H.D. 1, S.D. 1:

Senator Fukunaga moved that H.B. No. 1151, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Levin.

Senator Chun rose in support of the measure and said:

"Mr. President, I rise in favor of the bill.

"Mr. President, It is an essential thing that we do in order to make sure that the funds are there to continue the Child and Adolescent Mental Health Program in order to comply with the Felix/Waihee consent decree. However, Mr. President, I want to note for the record the findings of our own Auditor in regard to the management of that program.

"In the Auditor's summary of March 1999, she found the following:

'We also found that the inability of the Child and Adolescent Mental Health Division to effectively manage its contracts with private providers is an on-going problem. Poor contract management controls leave no assurance that quality services are delivered effectively and efficiently by outside providers. The Division's new performance based method of contracting requires increased oversight for which the Division is not adequately prepared. The Division may not be able to compel contractor performance because it did not finalize clinical treatment standards before issuing its fiscal year 1997-1998 request for proposals for contracted services.

'On site monitoring of all contracts is not conducted regularly and private providers are not giving the Division the information necessary to assess whether services are required or provided.

'Finally, we found that the Division has been unable to analyze and control the cost of private provider contract services. An in-house analysis was never conducted to determine the cost effectiveness of privatization. Also, the Division has been unable to project accurately the number of children and adolescents who will require services. Without accurate information a Division cannot determine the costs and benefits of privatization.'

"Mr. President, while there has been a response by the Department regarding the severe criticism by the Auditor, and while we do want to continue providing these services to the children, I really must remind all of us that we need to consider the quality of the services that we are providing, whether it be in mental health or other kinds of contracts. We need to focus on quality and not merely quantity.

"I trust, though, with this action and the report that was submitted by the Auditor that the Department will now follow through and be very, very careful and very, very aware that they need to make sure that the funds that we are giving them, as Legislators, are adequately spent and do what they are supposed to be doing -- i.e., reach the children, and not just go to feather other people's beds.

"Thank you, Mr. President."

Senator Iwase also rose in support of the measure as follows:

"Mr. President, I'm rising in support of the bill.

"I would just like to ask that the comments of the Senator from South Kauai be incorporated in the Journal as though they were my own. Thank you."

The Chair so ordered.

Senator Slom rose to support the measure with reservations and stated:

"Mr. President, I rise to support the bill with reservations.

"I would also like to 'piggyback' on the comments made by my colleague from Kauai in terms of the Auditor's report.

"Mr. President, I'm very concerned, as I've mentioned numerous times before this body, we really watered down the term 'emergency,' because everything now is an emergency -- a critical emergency funding. We're talking about \$42 million in this bill right now. It's my understanding that the Department of Health actually ran out of money last Friday for the funding of these critical services. It's also my further understanding that the Department of Health borrowed about \$6 million from its payroll. It's also my understanding that the Department of Health borrowed an additional \$3 million from the Department of Education. It's also my understanding that they're still \$2 million short; that they're going to have to borrow that additional \$2 million. And of the total amount of \$42 million, more than \$10 million represent obligations going back to fiscal year '98.

"So it makes me wonder why, and I hope my colleagues wonder as well, if the Department of Health can get by for nine months without paying these bills, then how can we be concerned about a delay now. The Auditor hit it right on the head. This is a question not of money. It is a question of management and leadership. And too often this body is rubber-stamping proposals to give more money without requiring that action be taken. We don't follow up on the Legislative Auditor's reports. I have a room full of them. They're wonderful reports, but we don't do anything about it.

"And everything that we're calling emergency and critical right now, is our responsibility. And at some point here, we're going to have to say no. We're going to have to say that, as my colleague said, it's a question of quality rather than quantity. And it's a question, as I said, of leadership versus money.

"I note further that in the committee report, while there is a requirement that there be one report made within 30 days of this appropriation, there was also sentiment expressed by the Ways and Means Committee that there be on-going continuous 30-day updates. But unlike bills that are aimed at business, where this government says you shall do this; you must do that, the committee report only says 'The Department of Health should provide continuous thirty-day updates,' and 'The Department of Health should seek out data,' and 'The Department of Health should improve its forward planning.'

"When are we going to get tough on the people that are spending the taxpayers' money and that are responsible for the things that are not being done correctly? We're always saying that we're concerned about the children. If we are truly concerned about the children, let's pass better bills. Let's implement the Auditor's reports, and let's hold people responsible.

"Thank you, Mr. President."

Senator Anderson rose and said:

"Mr. President, would you please note my W/R and have both the Majority Floor Leader's and the Minority Floor Leader's words put in the Journal as though they were my own."

The Chair so ordered.

The motion was put by the Chair and carried, H.B. No. 1151, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION FOR THE CHILD AND ADOLESCENT MENTAL HEALTH DIVISION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Ihara).

At 12:08 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:11 o'clock p.m.

Senator Kawamoto, for the Committee on Transportation and Intergovernmental Affairs, requested a waiver pursuant to Senate Rule 20 for H.B. No. 8, and the Chair granted the waiver.

#### ADJOURNMENT

At 12:12 o'clock p.m., on motion by Senator Chun, seconded by Senator Slom and carried, the Senate adjourned until 11:30 o'clock a.m., Tuesday, March 23, 1999.