

TWENTY-NINTH DAY

Friday, March 10, 2000

The Senate of the Twentieth Legislature of the State of Hawaii, Regular Session of 2000, convened at 11:37 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by the Reverend Halbert Weidner, C.O., Holy Trinity Parish, after which the Roll was called showing all Senators present with the exception of Senators D. Ige and Matsuura who were excused.

The President announced that he had read and approved the Journal of the Twenty-Eighth Day.

Senator Taniguchi, on behalf of Senator Fukunaga and himself, congratulated the Roosevelt High School Boys Varsity Basketball Team on winning the 2000 OIA Championship Tournament and introduced the following individuals: Head Coach, John Chung; Team Captains: Van Dorsey, Chad Kapanui, and Maulia LaBarre; Team Members: Ka La Koki, Cyle Kuwanoe, Chad Owens, Keola Stietzel, T.J. Talaro, Chad Uyechi, and Joshua Yoshimoto; and Athletic Director, Rodney Iwasaki.

At 11:44 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:53 o'clock a.m.

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 210 to 221) were read by the Clerk and were disposed of as follows:

Gov. Msg. No. 210, dated February 17, 2000, transmitting the 1999 Annual Report on Home Property Liens, prepared by the Department of Human Services pursuant to Section 346-29.5, HRS, was placed on file.

Gov. Msg. No. 211, dated February 18, 2000, transmitting the Annual Report for Fiscal Year 1999 prepared by the Office of Youth Services, pursuant to Section 352D-6, HRS, and Act 151, Section 4, SLH 1991, was placed on file.

Gov. Msg. No. 212, dated February 18, 2000, transmitting the 1998-1999 Annual Report prepared by the Natural Energy Laboratory of Hawaii, pursuant to Chapter 227D, HRS, was placed on file.

Gov. Msg. No. 213, dated March 1, 2000, transmitting the 1999 Annual Report of The Research Corporation of the University of Hawaii, pursuant to Section 307-6, HRS, was placed on file.

Gov. Msg. No. 214, dated March 1, 2000, transmitting the Report of the Joint Waikiki Task Force, "Recapturing the Magic of Waikiki," prepared by the City and County of Honolulu Planning Department and the Department of Business, Economic Development and Tourism, Office of Planning and Convention Center Authority, was placed on file.

Gov. Msg. No. 215, dated March 3, 2000, transmitting the Comprehensive Annual Financial Report of the State of Hawaii for the fiscal year ended June 30, 1999, prepared by the Comptroller pursuant to Section 40-5, HRS, was placed on file.

Gov. Msg. No. 216, dated March 3, 2000, transmitting a report prepared by the Department of Health pursuant to Section 342G-15, HRS, relating to integrated solid waste management, was placed on file.

Gov. Msg. No. 217, dated March 3, 2000, transmitting a report prepared by the Department of Health, Communicable Disease Division, STD/AIDS Prevention Branch, pursuant to Act 91, Section 17, SLH 1999, requesting that the Department of Health submit a report itemizing the levels of funding for all STD/AIDS prevention providers, was placed on file.

Gov. Msg. No. 218, dated March 6, 2000, transmitting a report prepared by the Department of Human Services, Med-QUEST Division, pursuant to Act 91, Section 28, SLH 1999, on the expenditures, status, and projected needs for the Medicaid Management Information System and the Hawaii Automated Welfare Information System, was placed on file.

Gov. Msg. No. 219, dated March 8, 2000, transmitting the 1999 Annual Report prepared by the High Technology Development Corporation pursuant to Chapter 206M, HRS, was placed on file.

Gov. Msg. No. 220, dated March 8, 2000, transmitting a report, "Statewide Substance Abuse Treatment Plan, A Foundation Document," prepared by the Department of Health, Alcohol and Drug Abuse Division, was placed on file.

Gov. Msg. No. 221, submitting for consideration and confirmation to the Labor and Industrial Relations Appeals Board, the nomination of RANDALL Y. IWASE, term to expire June 30, 2010, was referred to the Committee on Labor and Environment.

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 Hawaii Labor Relations Board dated February 24, 2000, transmitting the HLRB Informational Bulletin No. 37, which provides, by employing jurisdictions, the number of public employees in each of the 13 collective bargaining units established by Section 89-6, HRS.

Dept. Com. No. 27, from the State Auditor dated February 24, 2000, transmitting a report, "Review of Revolving Funds, Trust Funds, and Trust Accounts of the Department of the Attorney General, the Department of Business, Economic Development, and Tourism, and the University of Hawaii," (Report No. 00-07) pursuant to Section 23-12, HRS.

Dept. Com. No. 28, from the State Auditor dated February 28, 2000, transmitting a report, "Audit of the Convention Center Authority," (Report No. 00-08).

Dept. Com. No. 29, from the Department of Transportation dated February 29, 2000, transmitting a report, Safe Communities Request for Grant Proposals for Federal Fiscal Year 2001 (October 1, 2000-September 30, 2001).

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 394 to 397) were read by the Clerk and were disposed of as follows:

Hse. Com. No. 394, informing the Senate that the House has disagreed to the amendments proposed by the Senate to H.B. No. 164, was placed on file.

Hse. Com. No. 395, transmitting H.B. No. 2650, H.D. 1, which passed Third Reading in the House of Representatives on March 9, 2000, was placed on file.

On motion by Senator Chun, seconded by Senator Slom and carried, H.B. No. 2650, H.D. 1, entitled: "A BILL FOR AN

ACT RELATING TO THE JUDICIARY," passed First Reading by title and was referred to the Committee on Judiciary, then to the Committee on Ways and Means.

Hse. Com. No. 396, transmitting H.B. No. 1900, H.D. 1, which passed Third Reading in the House of Representatives on March 9, 2000, was placed on file.

On motion by Senator Chun, seconded by Senator Slom and carried, H.B. No. 1900, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE BUDGET," passed First Reading by title and was referred to the Committee on Ways and Means.

Hse. Com. No. 397, informing the Senate that the Speaker on March 9, 2000, discharged Representative Saiki as a co-chairman and appointed Representative Yamane as a co-chairman on the part of the House at the conference on H.B. No. 139, H.D. 1, S.D. 2, was placed on file.

SENATE CONCURRENT RESOLUTIONS

The following concurrent resolutions (S.C.R. Nos. 56 to 67) were read by the Clerk and were deferred:

Senate Concurrent Resolution

No. 56 "SENATE CONCURRENT RESOLUTION CALLING FOR THE ESTABLISHMENT OF A JOINT INTERIM COMMITTEE TO DEVELOP A POLICY ON LEGISLATIVE BILL LIMITS."

Offered by: Senators Mizuguchi, Chun, Matsuura, Bunda, Fukunaga, D. Ige, Iwase, Nakata, Sakamoto, Tanaka.

No. 57 "SENATE CONCURRENT RESOLUTION REQUESTING THE AUDITOR TO REVIEW AND ASSESS THE DEPARTMENT OF EDUCATION'S DEVELOPMENT OF EDUCATIONAL STANDARDS FOR PUBLIC SCHOOLS STATEWIDE."

Offered by: Senators Mizuguchi, D. Ige, Buen, Chumbley, Chun Oakland, Fukunaga, Hanabusa, Ihara, Inouye, Kanno, Kawamoto, Levin, Matsunaga, Matsuura, Sakamoto, Slom, Tam, Taniguchi.

No. 58 "SENATE CONCURRENT RESOLUTION REQUESTING THE DEVELOPMENT OF A SCHOOL CHOICE PROGRAM FOR HAWAII PUBLIC SCHOOLS."

Offered by: Senators Mizuguchi, D. Ige, Buen, Chumbley, Chun Oakland, Fukunaga, Hanabusa, Inouye, Kawamoto, Levin, Matsunaga, Matsuura, Slom, Tam.

No. 59 "SENATE CONCURRENT RESOLUTION REQUESTING THE OMBUDSMAN TO INVESTIGATE AND OBTAIN INFORMATION REGARDING GEOGRAPHIC EXCEPTIONS GRANTED BY THE DEPARTMENT OF EDUCATION."

Offered by: Senators Mizuguchi, D. Ige, Buen, Chumbley, Chun Oakland, Fukunaga, Hanabusa, Ihara, Inouye, Kanno, Kawamoto, Levin, Matsunaga, Matsuura, Sakamoto, Slom, Tam.

No. 60 "SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO STUDY THE FEASIBILITY OF ESTABLISHING, ASSESSING, AND COLLECTING USER FEES TO OFFSET THE COST OF MAINTAINING KOKEE STATE PARK AND ALAKAI SWAMP ON THE ISLAND OF KAUAI."

Offered by: Senators Chun, Chumbley, Mizuguchi.

No. 61 "SENATE CONCURRENT RESOLUTION REQUESTING THE HAWAII COMMUNITY DEVELOPMENT CORPORATION OF HAWAII TO PROVIDE A COMPREHENSIVE LISTING OF HOUSING ACCOMMODATIONS FOR PUBLIC DISTRIBUTION."

Offered by: Senator Tam.

No. 62 "SENATE CONCURRENT RESOLUTION REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO DETERMINE THE LIKELY SOCIAL AND ECONOMIC IMPACTS OF SITING A HOLISTIC HAWAIIAN ALTERNATIVE TO PRISON FACILITY ON THE ISLAND OF HAWAII."

Offered by: Senator Levin.

No. 63 "SENATE CONCURRENT RESOLUTION REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO DETERMINE THE LIKELY SOCIAL AND ECONOMIC IMPACTS OF SITING A PRISON FACILITY ON THE ISLAND OF HAWAII."

Offered by: Senator Levin.

No. 64 "SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF AGRICULTURE TO CONSIDER ALLOWING HAWAII GROWERS TO IMPORT SPECIFIC BENEFICIAL INSECT SPECIES DIRECTLY FROM COMMERCIAL MAINLAND LABORATORIES, WITHOUT INSPECTION, FOR BIOLOGICAL PEST CONTROL PURPOSES."

Offered by: Senator Levin.

No. 65 "SENATE CONCURRENT RESOLUTION URGING THE STATE DEPARTMENTS OF HEALTH, AGRICULTURE, EDUCATION AND THE HAWAII SCHOOL FOOD SERVICE TO EXTEND THE POSSIBILITIES FOR OPTIONAL VEGETARIAN MEALS IN HAWAII PUBLIC SCHOOLS."

Offered by: Senator Levin.

No. 66 "SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO REVIEW CURRENT STATUTES TO DETERMINE WHETHER IT IS ILLEGAL AND WHETHER IT SHOULD BE ILLEGAL TO REMOVE AND SELL SAND FROM PUBLIC BEACHES."

Offered by: Senator Levin.

No. 67 "SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM TO EXAMINE THE CAPITAL ACCESS PROGRAMS DEVELOPED IN OTHER STATES AND TO RECOMMEND TO THE LEGISLATURE WHETHER HAWAII SHOULD IMPLEMENT A SIMILAR PROGRAM."

Offered by: Senator Levin.

SENATE RESOLUTIONS

The following resolutions (S.R. Nos. 24 and 25) were read by the Clerk and were deferred:

Senate Resolution

No. 24 "SENATE RESOLUTION REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO STUDY THE FEASIBILITY OF ESTABLISHING, ASSESSING, AND COLLECTING USER FEES TO OFFSET THE COST OF MAINTAINING KOKEE STATE PARK AND ALAKAI SWAMP ON THE ISLAND OF KAUAI."

Offered by: Senators Chun, Chumbley, Mizuguchi.

No. 25 "SENATE RESOLUTION REQUESTING THE HAWAII COMMUNITY DEVELOPMENT CORPORATION OF HAWAII TO PROVIDE A COMPREHENSIVE LISTING OF HOUSING ACCOMMODATIONS FOR PUBLIC DISTRIBUTION."

Offered by: Senator Tam.

ORDER OF THE DAY

ADVISE AND CONSENT

Stand. Com. Rep. No. 2786 (Gov. Msg. No. 152):

Senator Chumbley moved that Stand. Com. Rep. No. 2786 be received and placed on file, seconded by Senator Matsunaga and carried.

Senator Chumbley then moved that the Senate advise and consent to the nomination of ALLICYN HIKIDA TASAKA to the Civil Rights Commission, term to expire June 30, 2004, seconded by Senator Matsunaga.

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

Ayes, 22. Noes, none. Excused, 3 (D. Ige, Matsuura, Tanaka).

At this time, Senator Levin rose and said:

"Mr. President, some people will do anything to get on television. (Laughter.) While many of us were shuffling paper yesterday or doing other things that we thought were important, there was one among us who was asked for and freely gave the most precious gift of all -- the gift of life.

"I believe we would all like to think that we would do the same thing in the same situation, but still it takes a special person to follow through.

"Donating to an individual he may never know or may never meet; undergoing considerable inconvenience and pain and discomfort . . . it really is the essence of what it means to be a humanitarian.

"There is another among us that I learned about this morning -- Senator Chun -- who has been in a similar situation, but it was years before he became our colleague. He described the experience as being kicked by a horse. That puts this somewhat in perspective.

"Since this individual is quite wealthy, we are not going to provide a frame or a lei. (Laughter.) He can do that himself. (More laughter.) We would like to take this opportunity to honor and to welcome to the 'hot seat' Senator Avery Chumbley."

Senator Chumbley rose to be recognized and received a resounding round of applause.

Senator Matsunaga then rose and said:

"Mr. President, I know there were many times last session when many of our colleagues wanted Senator Chumbley's blood. (Laughter.) Well, I think it's very fortunate that they did not succeed because a one-year-old child needed his blood much more.

"I did want to dispel some of the rumors floating around out there that it is absolutely not true that Senator Chumbley asked for medical marijuana to relieve his suffering. (More laughter.)

"But in all seriousness, I think this does show that Senator Chumbley's heart is really bigger than his head. As Mark Twain put it so well -- 'Few things are harder to put up with than the annoyance of a good example.' Thank you for setting that good example."

At 11:58 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.

Senator M. Ige rose on a point of personal privilege as follows:

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

"Mr. President, as one of the former co-chairs of your Committee on Government Operations, I'd like to share a few thoughts about some of the comments made by our Minority Leader and Floor Leader yesterday regarding the AG's TRO on the auditor's office.

"Mr. President, on February 23, 2000, our auditor, Marion Higa, sent letters to the Departments of Health and Education for the production of records on students who are subject to the Felix Consent Decree. This was for an audit requested by the Legislature, by us, due to the rapid increases in appropriation requests over the last five years without sufficient documentation and justification.

"On March 7, 2000, the attorney general petitioned the courts for a temporary restraining order to block the auditor from obtaining certain documents. This is a matter of grave concern to me, and I believe to the Legislature, because in challenging the auditor's authority to access records, this petition for a temporary restraining order threatens to weaken the investigative powers of the auditor, whose findings and recommendations we all rely upon for our decision making. The purpose of the audit is to ensure the oversight authority of the Legislature in the expenditure of public moneys.

"Last year the Legislature appropriated \$4,836,000 and the same sum for fiscal year 2001 for services for children under Felix. The Legislature also appropriated an additional \$900,000 for each of the two fiscal years in the budget biennium to identify students qualifying for Felix services. And now, this year the administration is seeking an emergency appropriation of \$17 million in S.B. No. 2877 to fund Felix services, and an additional \$378,000 for support services to certain emotionally disturbed children and adolescents.

"For all this money we have appropriated we have an obligation to our constituents to ensure that the money has been properly spent. This petition for a TRO undermines the Legislature's exclusive authority to control the purse strings of this state. The attorney general's petition questions the lawfulness of the auditor's request for records claiming that they do not have subpoena status; claims that the auditor's request is overly broad, unduly burdensome, oppressive and onerous in scope and nature; and claims that allowing access would breach federal confidentiality of records law involving federally supported educational programs.

"While I cannot speak to the claim of federal confidentiality records, looking at Section 23-5 of the Hawaii Revised Statutes tells me that the auditor has the authority to require production of records even if the word subpoena is not used. My review of the letter sent to Dr. Anderson and Dr. LeMahieu tells me that the auditor clearly and precisely identified the documents sought.

"I believe Marion Higa is doing outstanding work and I support her fully. Let us rally behind her to ensure the integrity of the Auditor's Office and its continued crucial service to all of us here in the Legislature.

"Thank you."

ADJOURNMENT

At 12:05 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., Monday, March 13, 2000.