

SIXTEENTH DAY

Friday, February 13, 2004

The Senate of the Twenty-Second Legislature of the State of Hawaii, Regular Session of 2004, convened at 11:44 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by Sister Claudia Wong, C.S.J., Sisters of St. Joseph, after which the Roll was called showing all Senators present with the exception of Senators Aduja and Ige who were excused.

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

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 148 to 151) were read by the Clerk and were placed on file:

Gov. Msg. No. 148, dated January 16, 2004, transmitting the Monthly Notification of Expenditures from the Director of Health Relative to the Felix Consent Decree for the Months of July, August, September and October, 2003, prepared by the Department of Health pursuant to Act 200, Section 30, SLH 2003.

Gov. Msg. No. 149, dated January 30, 2004, transmitting a report prepared by the Department of Public Safety pursuant to Act 200, Section 57, SLH 2003, concerning expenditures for mainland prison contracts for Fiscal Year Ending June 30, 2003.

Gov. Msg. No. 150, dated January 30, 2004, transmitting the Annual Financial Report for the Domestic Violence Prevention Special Fund, prepared by the Department of Health, Health Resources Administration, Family Health Services Division, Maternal and Child Health Branch, pursuant to Section 321-1.3, HRS.

Gov. Msg. No. 151, dated January 30, 2004, transmitting a Report on the Implementation of the State Plan for Substance Abuse, prepared by the Department of Health, Alcohol and Drug Abuse Division, pursuant to Section 321-195, HRS.

DEPARTMENTAL COMMUNICATIONS

The following communications (Dept. Com. Nos. 24 and 25) were read by the Clerk and were placed on file:

Dept. Com. No. 24, from the University of Hawaii dated February 6, 2004, transmitting a Report on Convening a Task Force to Determine Whether Hawaii Should Enact a Three Strikes Law, prepared by the University of Hawaii pursuant to S.C.R. No. 86 (2003).

Dept. Com. No. 25, from the State Auditor dated February 11, 2004, transmitting a report, "Audit of Selected Procurement, Human Resource, and Fiscal Issues of the Hawaii Health Systems Corporation," (Report No. 04-03).

HOUSE COMMUNICATION

Hse. Com. No. 6, transmitting H.B. No. 2340, which passed Third Reading in the House of Representatives on February 12, 2004, was read by the Clerk and was placed on file.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, H.B. No. 2340, entitled: "A BILL FOR AN

ACT RELATING TO MILK CONTROL," passed First Reading by title and was deferred.

STANDING COMMITTEE REPORTS

Senator Hanabusa, for the Committee on Judiciary and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 2033) recommending that S.B. No. 1000, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 1000, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CHILD ABUSE," passed Second Reading and was placed on the calendar for Third Reading on Tuesday, February 17, 2004.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 2034) recommending that S.B. No. 2003, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 2003, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PASSENGER RESTRAINT DEVICES," passed Second Reading and was placed on the calendar for Third Reading on Tuesday, February 17, 2004.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 2035) recommending that S.B. No. 2015 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 2015, entitled: "A BILL FOR AN ACT RELATING TO ABANDONED VEHICLES," passed Second Reading and was placed on the calendar for Third Reading on Tuesday, February 17, 2004.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 2036) recommending that S.B. No. 2021, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 2021, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO STREET ROD VEHICLES," passed Second Reading and was placed on the calendar for Third Reading on Tuesday, February 17, 2004.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 2037) recommending that S.B. No. 2022 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 2022, entitled: "A BILL FOR AN ACT RELATING TO DUNE BUGGIES," passed Second Reading

and was placed on the calendar for Third Reading on Tuesday, February 17, 2004.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 2038) recommending that S.B. No. 2034 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 2034, entitled: "A BILL FOR AN ACT RELATING TO HAWAII PUBLIC PROCUREMENT CODE," passed Second Reading and was placed on the calendar for Third Reading on Tuesday, February 17, 2004.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 2039) recommending that S.B. No. 2344, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 2344, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HIGHWAY SAFETY," passed Second Reading and was placed on the calendar for Third Reading on Tuesday, February 17, 2004.

Senator Hanabusa, for the Committee on Judiciary and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 2040) recommending that S.B. No. 2540 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 2540, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR UNIFORM LAWS," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Menor, for the Committee on Commerce, Consumer Protection and Housing, presented a report (Stand. Com. Rep. No. 2041) recommending that S.B. No. 3072, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 3072, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE PREMIUM TAX," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 2042) recommending that S.B. No. 2016, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 2016, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LICENSE RENEWAL," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 2043) recommending that S.B.

No. 2017, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 2017, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO RACING ON HIGHWAYS," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 2044) recommending that S.B. No. 2019, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 2019, 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 and Hawaiian Affairs.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 2045) recommending that S.B. No. 2020, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 2020, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HIGHWAY SAFETY," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 2046) recommending that S.B. No. 2024, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 2024, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE TRAFFIC CODE," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 2047) recommending that S.B. No. 2014 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 2014, entitled: "A BILL FOR AN ACT RELATING TO UNADJUDICATED TRAFFIC FINES," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 2048) recommending that S.B. No. 2026, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 2026, S.D. 1, entitled: "A BILL FOR AN ACT

RELATING TO TRANSPORTATION," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 2049) recommending that S.B. No. 2040 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 2040, entitled: "A BILL FOR AN ACT RELATING TO THE AUDITOR," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 2050) recommending that S.B. No. 2045, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 2045, S.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION TO THE HAWAII CIVIL AIR PATROL," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Kawamoto, for the majority of the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 2051) recommending that S.B. No. 2052 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the majority of the Committee was adopted and S.B. No. 2052, entitled: "A BILL FOR AN ACT RELATING TO MASS TRANSIT FUNDING," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 2052) recommending that S.B. No. 2076 pass Second Reading and be referred to the Committee on Commerce, Consumer Protection and Housing.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 2076, entitled: "A BILL FOR AN ACT RELATING TO INSURERS," passed Second Reading and was referred to the Committee on Commerce, Consumer Protection and Housing.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 2053) recommending that S.B. No. 2087, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 2087, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TRAFFIC VIOLATIONS," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 2054) recommending that S.B.

No. 2131, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 2131, S.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE DEPARTMENT OF DEFENSE," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 2055) recommending that S.B. No. 2238 pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 2238, entitled: "A BILL FOR AN ACT RELATING TO HIGHWAY SAFETY," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs.

Senator Kawamoto, for the majority of the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 2056) recommending that S.B. No. 3078 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the majority of the Committee was adopted and S.B. No. 3078, entitled: "A BILL FOR AN ACT RELATING TO HIGHWAYS," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 2057) recommending that S.B. No. 2250, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 2250, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LIQUOR LICENSES," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 2058) recommending that S.B. No. 2310 pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 2310, entitled: "A BILL FOR AN ACT RELATING TO STATE AND COUNTY TORT LIABILITY," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 2059) recommending that S.B. No. 2313, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 2313, S.D. 1, entitled: "A BILL FOR AN ACT AUTHORIZING THE ISSUANCE OF GENERAL

OBLIGATION BONDS AND MAKING AN APPROPRIATION FOR THE CAPITAL IMPROVEMENT PROJECTS FOR THE COUNTY OF KAUAI," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 2060) recommending that S.B. No. 2361 pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 2361, entitled: "A BILL FOR AN ACT RELATING TO THE MILITARY," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 2061) recommending that S.B. No. 2364 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 2364, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 2062) recommending that S.B. No. 2533, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 2533, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 2063) recommending that S.B. No. 2772, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 2772, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE IMPOUNDMENT OF VEHICLES," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 2064) recommending that S.B. No. 2780 pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 2780, entitled: "A BILL FOR AN ACT RELATING TO FIRE FIGHTER LIABILITY," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 2065) recommending that S.B. No. 2913, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 2913, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CIVIL DEFENSE," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 2066) recommending that S.B. No. 2914, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 2914, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CIVIL DEFENSE SIRENS," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 2067) recommending that S.B. No. 2998 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 2998, entitled: "A BILL FOR AN ACT RELATING TO PASSENGER FACILITY CHARGES," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Fukunaga, for the Committee on Economic Development, presented a report (Stand. Com. Rep. No. 2068) recommending that S.B. No. 2495, as amended in S.D. 1, pass Second Reading and be recommitted to the Committee on Economic Development.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 2495, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ECONOMIC DEVELOPMENT," passed Second Reading and was recommitted to the Committee on Economic Development.

ORDER OF THE DAY

ADVISE AND CONSENT

Stand. Com. Rep. No. 2031 (Gov. Msg. No. 1):

Senator Hanabusa moved that Stand. Com. Rep. No. 2031 be received and placed on file, seconded by Senator Chun Oakland and carried.

Senator Hanabusa then moved that the Senate advise and consent to the nomination of PATRICK W. BORDER to the office of Judge, 16th Division, Circuit Court of the First Circuit, in accordance with the provisions of Article VI, Section 3, of the Hawaii State Constitution, for a term of ten years, seconded by Senator Chun Oakland.

Senator Hanabusa rose to speak in support of the nominee as follows:

"Mr. President, I rise in support of Gov. Msg. No. 1.

"Mr. President, colleagues, Gov. Msg. No. 1 is the appointment of Patrick Border to the 16th Division of the First Circuit of the State of Hawaii. Mr. Border has part of his educational background, basically, from the University of Nebraska, including the University of Nebraska Law School.

"Mr. Border is deemed to be highly qualified by the Hawaii Bar Association. What they have done this year, Mr. President, is use the modified version of the ABA Guidelines and reviewed the qualifications of Mr. Border based on integrity, legal knowledge and ability, professional experience, judicial temperament, diligence, public service, just to name a few of criteria, and in addition, held an interview with Mr. Border. Based upon the feedback from the Bar Association, and I'd like to add that I was one of those that was asked to submit comments, so they were doing it very thoroughly, he was determined to be highly qualified.

"Mr. Border, Mr. President, I asked him when I first met him, how in the world did the Governor pick someone who's part of a plaintiff's law firm? For those of us who know that law firm, he is a member of the Cronin Fried Sekiya Kekina and Fairbanks firm, we may know it better as the law firm of which Sylvia Luke, the Vice Speaker of the House, is a member of as well. But when you look at Mr. Border's experience, you know why. He comes as a Judge Advocate General, officer of the U.S. Air Force, which by the way, Mr. President, thoroughly impressed our good colleague from Waipahu. He was a Deputy Prosecuting Attorney, a Deputy Attorney General, and a Deputy Corporation Counsel, before he joined the ranks of a plaintiff's law firm.

"A person who came forward and testified, who spoke very highly of him was Lawrence Grean, who has been in the prosecutor's office since 1970. He made it a point to tell the Committee that he was in the prosecutor's office since 1970 and he's watched all of them go through. He serves now as a Director of Screening and Intake and he said Mr. Border was one of the finest trial lawyers that he has ever seen. I guess back then he maybe was supervising and he said he was of impeccable moral character.

"Someone that many of us know, Bert Sakura, said that Mr. Border came with a diverse background, but over the most recent years has developed such an interest in resolution of cases. He went out on his own and became a mediator and arbitrator, and we found and had testimony in his favor in this latest venture. I think Bert Sakura summarized it very well by saying that this is a natural progression for Mr. Border. The role of a judge advocate, AG, Corp Counsel, prosecuting attorney, attorney, and now to mediation and arbitration.

"Mr. President, I concur with that, in that he will bring to the First Circuit a natural ability with the intent to resolve matters and the proper judicial temperament and will make a fine addition to the First Circuit Court of the State of Hawaii. I ask that you, along with my colleagues, join me in consenting and confirming Mr. Border to the First Circuit Court.

"Thank you very much."

Senator Slom rose in support of the nominee and said:

"Mr. President, I, too, rise in support of Gov. Msg. No. 1.

"You heard the background of the nominee and his widespread experience at the federal, state, local level and in private practice. And as the good Chair of the Judiciary

Committee mentioned, some of my colleagues may be surprised because he is a plaintiff's attorney and yet the Governor chose him.

"The Governor has once again demonstrated her wisdom and her fairness in the choices that have been made, and we in the Republican Caucus are very happy to add our words of support to this candidate and also to mention that he has been active in the community. He's active in a number of different areas, including education, and if you really get to talk to him for more than five minutes, you'll even find a sense of humor.

"So, we, too, join with our colleagues and urge his swift confirmation. Thank you, Mr. President."

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

Ayes, 23. Noes, none. Excused, 2 (Aduja, Ige).

At this time, Senator Hanabusa introduced Judge Border to the members of the Senate.

Stand. Com. Rep. No. 2032 (Gov. Msg. No. 2):

Senator Hanabusa moved that Stand. Com. Rep. No. 2032 be received and placed on file, seconded by Senator Chun Oakland and carried.

Senator Hanabusa then moved that the Senate advise and consent to the nomination of CRAIG H. NAKAMURA to the office of Associate Judge, Intermediate Court of Appeals, in accordance with the provisions of Article VI, Section 3, of the Hawaii State Constitution, for a term of ten years, seconded by Senator Chun Oakland.

Senator Hanabusa rose to speak in support of the nominee and said:

"Mr. President, I rise to speak in favor of Gov. Msg. No. 2.

"Mr. President, Craig Nakamura has been nominated to the Intermediate Court of Appeals as Associate Justice. His credentials are impeccable. He graduated from the University of Hawaii, Phi Beta Kappa, and Harvard Law School, cum laude. He's also taught at the University of Hawaii Law School. The Hawaii Bar Association has deemed him highly qualified, based upon all of the criteria that I've mentioned above in Gov. Msg. No. 1.

"Mr. President, what was very interesting is it's very rare that the Attorney General of the State of Hawaii, when he comes to testify before a Committee, gets trumped by anyone. In this particular situation, he was trumped by everyone in the federal court system, beginning with Rick Clifton, all of the judges – Judges Ezra, Kay, Mollway, Gillmor – as well as all of the magistrates, which include Leslie Kobayashi and Kevin Chang. I believe that we should pay attention to what the judge emeritus, which, by the way, is a new title given to Judge Samuel King, who, only as he can say in his indomitable style, had this to say about Craig Nakamura: 'His reputation is of the highest, in spite of his Harvard education.' Only Judge King can put something like that.

"When we had the hearing, Mr. President, it was really like we had a meeting of the Cabinet. Not only did we have the Attorney General, we had Mark Recktenwald, we had John Peyton, and Kurt Kawafuchi, who, I came to learn, was actually, though part of the IRS, kind of assigned to the U.S. Attorney's Office. All of them were there to show their support.

“The other thing that we had was it looked like a reunion of what they call themselves the AUSAs. This is the Assistant United States Attorneys. Ed Kubo came forward and said that he wanted to modify his testimony. He said, ‘Craig Nakamura is not one of the best, he is “the best” that he has.’ They all testified to his judicial temperament. The Federal Public Defender came forward and said that although he is on the opposite side of Mr. Nakamura all the time, he is of the highest integrity and no one could be better selected for this job. I think the person that said a lot was Shanlyn Park, also a federal public defender, who, by the way, I don’t know, Mr. President, but she said Craig Nakamura was her teacher. She has a case with him and she felt compelled to come forward and speak on his behalf.

“One of the most moving testimonies that we received was by a friend, Curtis Tom, who had suffered a stroke and was still having difficulty getting around, but he felt compelled to come forward to support his friend because he said his friend has always been there for him.

“All of the testimony we received, Mr. President, shows a very compassionate, but a very highly intelligent and a highly motivated person. He is someone that, bar none, has one of the most impressive credentials as far as appellate work, and he is selected for the Intermediate Court of Appeals. I don’t think we can find a better legal mind or a better person suited to do appellate work for this State. What will be Ed Kubo’s loss, will be the State of Hawaii’s gain.

“I ask that you, along with all of my colleagues, join me in consenting and confirming, Mr. Craig Nakamura as Associate Judge to the Intermediate Court of Appeals.

“Thank you very much.”

Senator Slom rose to speak in favor of the nominee and said:

“Mr. President, I rise on behalf of your emerging Majority Caucus, to add our support to Gov. Msg. No. 2.

“We have met with Mr. Nakamura, also, not only the motivation and the intelligence is there, but also the energy and the passion. We heard Sister Wong this morning talk to us about the pearl and we are very fortunate today that we have two pearls that we’re confirming.

“We’re also very fortunate that this Friday the 13th is a lucky day for Hawaii because we’re getting two individuals that have the ability to make the necessary changes in our judiciary and to move the judiciary along to make sure and guarantee that justice remains blind, but not dumb, and justice also is non-partisan.

“So, on behalf of my colleagues, we urge everyone to make this a speedy confirmation of Judge Nakamura. Thank you very much, Mr. President.”

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

Ayes, 22. Noes, none. Excused, 2 (Aduja, Ige, Whalen).

At this time, Senator Hanabusa introduced Judge Nakamura and his family, to the members of the Senate.

At 12:04 o’clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:09 o’clock p.m.

REFERRAL OF HOUSE BILL

MATTER DEFERRED FROM THURSDAY, FEBRUARY 12, 2004

H.B. No. 1819 (Hse. Com. No. 5):

By unanimous consent, action on H.B. No. 1819, entitled: “A BILL FOR AN ACT RELATING TO MOTOR VEHICLE INSURANCE,” was deferred until Tuesday, February 17, 2004.

At this time, Senator Kawamoto rose and said:

“I’d like to request that the Senate adjourn on a rising vote in memory of those that were killed this morning on the highway. Unfortunately, preliminary indications say that a couple of these cars were racing and speeding. May it reenergize us in our desire to do something about curtailing these activities.”

ADJOURNMENT

At 12:11 o’clock p.m., on motion by Senator Kawamoto, seconded by Senator Hogue and carried, the Senate adjourned until 11:30 o’clock a.m., Tuesday, February 17, 2004, on a rising vote, observing a moment of silence for the victims of the fatal accident on the H-1 Freeway this morning.

Respectfully submitted,

Clerk of the Senate

Approved:

President of the Senate