

## FOURTEENTH DAY

Wednesday, February 7, 2007

The Senate of the Twenty-Fourth Legislature of the State of Hawai'i, Regular Session of 2007, convened at 11:39 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by Kahu Leolani Pratt-Hao, Ka Hoku Ao Malamalama Church, after which the Roll was called showing all Senators present with the exception of Senator Bunda who was excused.

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

## MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 283 and 284) were read by the Clerk and were placed on file:

Gov. Msg. No. 283, dated January 27, 2007, transmitting the Annual Report of the Department of Public Safety's Correctional Industries, pursuant to Section 354D-3.5, HRS.

Gov. Msg. No. 284, dated January 26, 2007, transmitting the Report on the Adequacy of Federal Funding for the No Child Left Behind Act, prepared by the Department of Budget and Finance pursuant to Act 178, Section 153, SLH 2005.

## DEPARTMENTAL COMMUNICATION

Dept. Com. No. 21, from the State Auditor, dated February 6, 2007, transmitting a report "Audit of the Child Support Enforcement Agency," (Report No. 07-04), was read by the Clerk and was placed on file.

## SENATE CONCURRENT RESOLUTIONS

The following concurrent resolutions (S.C.R. Nos. 34 and 35) were read by the Clerk and were deferred:

## Senate Concurrent Resolution

No. 34 "SENATE CONCURRENT RESOLUTION RELATING TO THE ESTABLISHMENT OF A 'STATE OF HAWAII WORLD TRADE CENTER, HONOLULU'."

Offered by: Senator Fukunaga.

No. 35 "SENATE CONCURRENT RESOLUTION REQUESTING A SUNRISE REVIEW ON THE REGISTRATION OF PROVIDERS OF DEBT-MANAGEMENT SERVICES."

Offered by: Senator Taniguchi.

## SENATE RESOLUTION

The following resolution (S.R. No. 16) was read by the Clerk and was deferred:

## Senate Resolution

No. 16 "SENATE RESOLUTION RELATING TO THE ESTABLISHMENT OF A 'STATE OF HAWAII WORLD TRADE CENTER, HONOLULU'."

Offered by: Senator Fukunaga.

## STANDING COMMITTEE REPORTS

Senator Inouye, for the Committee on Intergovernmental and Military Affairs, presented a report (Stand. Com. Rep. No. 38) recommending that S.B. No. 1500, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Economic Development and Taxation.

On motion by Senator Ige, seconded by Senator Whalen and carried, the report of the Committee was adopted and S.B. No. 1500, S.D. 1, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION FOR DEPARTMENT OF TAXATION COUNTY SURCHARGE IMPLEMENTATION COSTS," passed Second Reading and was referred to the Committee on Economic Development and Taxation.

Senator English, for the Committee on Transportation and International Affairs, presented a report (Stand. Com. Rep. No. 39) recommending that S.B. No. 1677 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Ige, seconded by Senator Whalen and carried, the report of the Committee was adopted and S.B. No. 1677, entitled: "A BILL FOR AN ACT RELATING TO TRAFFIC CONTROL," passed Second Reading and was referred to the Committee on Ways and Means.

Senator English, for the Committee on Transportation and International Affairs, presented a report (Stand. Com. Rep. No. 40) recommending that S.B. No. 1514 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Ige, seconded by Senator Whalen and carried, the report of the Committee was adopted and S.B. No. 1514, entitled: "A BILL FOR AN ACT RELATING TO TRANSFERS FROM THE GENERAL FUND TO THE STATE HIGHWAY FUND," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Baker, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 41) recommending that S.B. No. 149, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Ige, seconded by Senator Whalen and carried, the report of the Committee was adopted and S.B. No. 149, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO STATE BONDS," passed Second Reading and was placed on the calendar for Third Reading on Friday, February 9, 2007.

Senator Baker, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 42) recommending that S.B. No. 1083, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Ige, seconded by Senator Whalen and carried, the report of the Committee was adopted and S.B. No. 1083, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE LEGISLATIVE BROADCAST PROGRAM," passed Second Reading and was placed on the calendar for Third Reading on Friday, February 9, 2007.

Senator Baker, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 43) recommending that S.B. No. 1084, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Ige, seconded by Senator Whalen and carried, the report of the Committee was adopted and S.B. No. 1084, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LEGISLATIVE PROCEEDINGS ON THE INTERNET," passed Second Reading and was placed on the calendar for Third Reading on Friday, February 9, 2007.

Senator Taniguchi, for the Committee on Commerce, Consumer Protection and Affordable Housing, presented a report (Stand. Com. Rep. No. 44) recommending that S.B. No. 1007, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Economic Development and Taxation.

On motion by Senator Ige, seconded by Senator Whalen and carried, the report of the Committee was adopted and S.B. No. 1007, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE GENERAL EXCISE TAX," passed Second Reading and was referred to the Committee on Economic Development and Taxation.

Senators Taniguchi and English, for the Committee on Commerce, Consumer Protection and Affordable Housing and the Committee on Transportation and International Affairs, presented a joint report of the majority of the Committees (Stand. Com. Rep. No. 45) recommending that S.B. No. 1506, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Economic Development and Taxation.

On motion by Senator Ige, seconded by Senator Whalen and carried, the joint report of the majority of the Committees was adopted and S.B. No. 1506, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO RENTAL MOTOR VEHICLE SURCHARGE TAX," passed Second Reading and was referred to the Committee on Economic Development and Taxation.

Senator Kokubun, for the Committee on Water, Land, Agriculture and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 46) recommending that S.B. No. 1542, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Ige, seconded by Senator Whalen and carried, the report of the Committee was adopted and S.B. No. 1542, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CEDED LANDS," passed Second Reading and was referred to the Committee on Ways and Means.

## ORDER OF THE DAY

### THIRD READING

Stand. Com. Rep. No. 10 (S.B. No. 139, S.D. 1):

Senator Baker moved that Stand. Com. Rep. No. 10 be adopted and S.B. No. 139, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Tsutsui.

Senator Slom rose in opposition to the measure and said:

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

"As you know, I voted against the increase in tax last year and one of the things that I said was that we're not really talking about people's health. We're talking about money and we're talking about taxation, and this bill, I think, was further proof of that. It was done in a very haphazard way. It was done erroneously, and even though the error was called to the attention of this Body, the bill had still passed, was signed into law, and my understanding is that the tax director was still

collecting on a per cigarette basis, as the Legislature in fact did intend but did not clearly define within the bill itself.

"I think for all bills we should be much more careful in terms of how we draft the bill, what we say, what we do so that our intent is very clear.

"Thank you, Madam President."

Senator Baker rose in support and stated:

"Madam President, I rise in support of this measure.

"I was surprised by the good Senator from Hawaii Kai's remarks since he voted for this measure in Committee, referring it to Ways and Means.

"As Chair of the Senate Health Committee last year, it was my responsibility to shepherd this bill through its process, and I apologize to my colleagues that with so many hands working on this particular measure, we did inadvertently leave out some language that the Revisor of Statutes corrected but we also need to provide these technical corrections so that future administrations and future tax directors will know exactly and very precisely what the Legislature intended.

"Although one could argue that since our collection for cigarette tax is on a per cigarette basis, there really wasn't need to include that particular phrase making it even more redundant. But nevertheless, this measure does correct some technical errors that the attorney general and others had pointed out to us after the measure was adopted.

"I appreciate my colleagues' indulgence and support and ask you to move this measure forward to the House. Thank you."

The motion was put by the Chair and carried, Stand. Com. Rep. No. 10 was adopted and S.B. No. 139, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CIGARETTE TAX," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 2 (Slom, Trimble). Excused, 1 (Bunda).

Senator Espero, Vice Chair of the Committee on Economic Development and Taxation, requested a waiver of the notice requirement pursuant to Senate Rule 21 for S.B. No. 1500.

Senator Espero noted:

"Madam President, the bill is being added to a previously scheduled hearing and the notice was filed in the Clerk's Office this morning. Thank you."

The Chair then granted the waiver.

## ADJOURNMENT

At 11:49 o'clock a.m., on motion by Senator Ige, seconded by Senator Whalen and carried, the Senate adjourned until 11:30 o'clock a.m., Thursday, February 8, 2007.