

## FIFTEENTH DAY

**Monday, February 11, 1991**

The Senate of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1991, convened at 11:40 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by the Reverend Robert Wasner, Windward Unity Church, after which the Roll was called showing all Senators present.

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

The following introductions of guests seated in the gallery were made to the members of the Senate:

Senator Chang welcomed and introduced Mr. Perdin Esiel, member of the staff of the Congress of Federated States of Micronesia, who will spend the next two weeks learning about the Hawaii State Legislature.

Senator Ikeda introduced Mr. Ryan Yeh and Miss Alia Clayton, student observers from Niu Valley Intermediate School, accompanied by Ms. Jane Fowler of her staff.

#### MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 118 to 137) were read by the Clerk and were placed on file:

Gov. Msg. No. 118, informing the Senate that on February 5, 1991, he signed into law H.B. No. 1 as Act 1, entitled: "MAKING APPROPRIATIONS TO PROVIDE FOR THE EXPENSES OF THE LEGISLATURE, THE LEGISLATIVE AUDITOR, THE LEGISLATIVE REFERENCE BUREAU, AND THE OMBUDSMAN."

Gov. Msg. No. 119, dated January 22, 1991, transmitting the "Status Report of the Medicaid Perinatal Demonstration Project," prepared by the Department of Human Services pursuant to Act 326 (1990).

Gov. Msg. No. 120, dated December 28, 1990, transmitting the "Annual Report, Fiscal Year 1990, Proceedings Under the Hawaii Omnibus Criminal Forfeiture Act," prepared by the Department of Attorney General in response to Section 712A-16(6), HRS.

Gov. Msg. No. 121, dated December 28, 1990, transmitting a report prepared by the Department of the Attorney General in response to H.C.R. No. 195 (1990), requesting the State Department of the Attorney General to determine legal steps and resources that would be necessary before instituting routine screening in Hawaii of all incoming and outgoing first-class mail for illegal drugs.

Gov. Msg. No. 122, dated January 4, 1991, transmitting "A Report on the West Oahu Social and Employment Services Incubator Project, Part 1: Summary," pursuant to Act 325, SLH 1990.

Gov. Msg. No. 123, dated January 4, 1991, transmitting the "Management Audit of the Capital Improvement Program, Airports Division, Department of Transportation, State of Hawaii," in response to Section 5, Act 299 (1990).

Gov. Msg. No. 124, dated January 8, 1991, transmitting the 1990 Annual Report (July 1, 1989 - June

30, 1990) of the Criminal Injuries Compensation Commission, pursuant to Chapter 351, HRS.

Gov. Msg. No. 125, dated December 18, 1990, transmitting the report "Hawaii Public Television's Pacific-Asian Programming in Relation to Non-State Funding," prepared by Hawaii Public Broadcasting Authority in response to Section 170B, H.B. No. 2500 (1990).

Gov. Msg. No. 126, dated December 18, 1990, transmitting the "Report to the 1991 Legislature on the Hawaii Interactive Television System," prepared by the Hawaii Public Broadcasting Authority in response to Section 170A, H.B. No. 2500 (1990).

Gov. Msg. No. 127, dated December 26, 1990, transmitting the "Hawaii Public Broadcasting Authority 1989 - 1990 Annual Report," in response to Section 314-12, HRS.

Gov. Msg. No. 128, dated December 20, 1990, transmitting the "Commissioner's Status Report to the Sixteenth Hawaii State Legislature on the Financial Institutions Law Recodification Study," in response to Act 185, SLH 1990.

Gov. Msg. No. 129, dated December 27, 1990, transmitting the "Commissioner's Report to the Sixteenth Legislature on the Thrift Guaranty Corporation of Hawaii," in response to Act 187, SLH 1985.

Gov. Msg. No. 130, dated January 14, 1991, transmitting the "Progress Report on Maximizing Federal Medicaid Funds for Hawaii," prepared by the Department of Human Services and the Department of Health pursuant to S.C.R. No. 130 (1990).

Gov. Msg. No. 131, dated January 14, 1991, transmitting a report prepared by the Department of Education in response to H.C.R. No. 151 (1990), on inventory of cooperative educational programs and resources provided by the Bishop Museum.

Gov. Msg. No. 132, dated January 14, 1991, transmitting the "1990 Progress Report: A Summary of Educational Assessment Activities Initiated Through the Hawaii State Department of Education," prepared by the Department of Education in response to S.B. No. 1856 (1989).

Gov. Msg. No. 133, dated January 23, 1991, transmitting the report "Resident Assistants in Elderly Housing Facilities: A Housing Demonstration Project," prepared by the Executive Office on Aging.

Gov. Msg. No. 134, dated December 27, 1990, transmitting a report prepared by the Department of Accounting and General Services in response to H.C.R. No. 32 (1990), to develop a systematic program of repair and maintenance for all state facilities.

Gov. Msg. No. 135, dated December 27, 1990, transmitting a report prepared by the Department of Accounting and General Services in response to H.C.R. No. 109 (1990), to develop a comprehensive repair and maintenance program for the Hawaii State Library facilities.

Gov. Msg. No. 136, dated January 7, 1991, transmitting the FY 1989-1990 Annual Report of the Hawaii Fisheries Coordinating Council, prepared by the Department of Land and Natural Resources.

Gov. Msg. No. 137, dated December 13, 1990, transmitting a report prepared by the Department of Human Services in response to S.C.R. No. 183 (1990), requesting a study on vocational rehabilitation.

### SENATE CONCURRENT RESOLUTION

The following concurrent resolution (S.C.R. No. 9) was read by the Clerk and was referred to committee:

Senate  
Concurrent  
Resolution

No. 9 "SENATE CONCURRENT RESOLUTION REQUESTING THE LEGISLATIVE AUDITOR TO STUDY AND REPORT ON THE FORMATION, GOVERNANCE, AND OVERSIGHT OF HOUSING COOPERATIVES IN HAWAII."

Offered by: Senators Cobb, Blair, Hagino, Ikeda, Kobayashi, A., McMurdo, Solomon, Tungpalan.

Referred to: Committee on Housing and Hawaiian Programs

### STANDING COMMITTEE REPORTS

Senator Blair, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 3) recommending that S.B. No. 100 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Blair, seconded by Senator Holt and carried, the report of the Committee was adopted and S.B. No. 100, entitled: "A BILL FOR AN ACT RELATING TO ALTERNATIVE DISPUTE RESOLUTION," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Blair, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 4) recommending that S.B. No. 124 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Blair, seconded by Senator Holt and carried, the report of the Committee was adopted and S.B. No. 124, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC DEFENDERS," passed Second Reading and was placed on the calendar for Third Reading on Wednesday, February 13, 1991.

Senator Blair, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 5) recommending that S.B. No. 135 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Blair, seconded by Senator Holt and carried, the report of the Committee was adopted and S.B. No. 135, entitled: "A BILL FOR AN ACT RELATING TO WRITS OF NE EXEAT," passed Second Reading and was placed on the calendar for Third Reading on Wednesday, February 13, 1991.

Senator Blair, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 6) recommending that S.B. No. 83 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Blair, seconded by Senator Holt and carried, the report of the Committee was adopted and S.B. No. 83, entitled: "A BILL FOR AN ACT RELATING TO SMALL CLAIMS," passed Second Reading and was placed on the calendar for Third Reading on Wednesday, February 13, 1991.

Senator Blair, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 7) recommending that S.B. No. 125 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Blair, seconded by Senator Holt and carried, the report of the Committee was adopted and S.B. No. 125, entitled: "A BILL FOR AN ACT RELATING TO DISTRICT AND CIRCUIT COURT COSTS AND FEES," passed Second Reading and was referred to the Committee on Ways and Means.

### ORDER OF THE DAY

#### RE-REFERRAL OF SENATE BILLS

The President re-referred the following Senate bills that were introduced:

Senate Bill	Referred to:
No. 61	Committee on Ways and Means
No. 179	Jointly to the Committee on Consumer Protection and Business Regulation and the Committee on Housing and Hawaiian Programs, and then to the Committee on Ways and Means
No. 182	Committee on Ways and Means
No. 315	Committee on Ways and Means
No. 458	Committee on Ways and Means
No. 469	Committee on Ways and Means
No. 537	Committee on Ways and Means
No. 600	Committee on Judiciary
No. 602	Committee on Health and Human Services
No. 614	Committee on Health and Human Services, then to the Committee on Ways and Means
No. 616	Committee on Ways and Means
No. 683	Committee on Consumer Protection and Business Regulation, then to the Committee on Judiciary
No. 698	Committee on Ways and Means
No. 900	Committee on Ways and Means
No. 947	Committee on Ways and Means
No. 1044	Committee on Planning, Land and Water Use Management
No. 1108	Committee on Tourism and Recreation, then to the Committee on Ways and Means
No. 1122	Committee on Consumer Protection and Business Regulation
No. 1123	Committee on Consumer Protection and Business Regulation
No. 1124	Committee on Consumer Protection and Business Regulation

No. 1181 Committee on Consumer Protection and Business Regulation

No. 1208 Committee on Consumer Protection and Business Regulation

No. 1287 Committee on Employment and Public Institutions, then to the Committee on Ways and Means

No. 1316 Committee on Employment and Public Institutions, then to the Committee on Consumer Protection and Business Regulation

No. 1317 Committee on Employment and Public Institutions, then to the Committee on Consumer Protection and Business Regulation

No. 1318 Committee on Consumer Protection and Business Regulation

No. 1387 Committee on Consumer Protection and Business Regulation

No. 1533 Committee on Employment and Public Institutions, then to the Committee on Ways and Means

No. 1618 Committee on Consumer Protection and Business Regulation

No. 1625 Committee on Consumer Protection and Business Regulation, then to the Committee on Judiciary

No. 2086 Jointly to the Committee on Consumer Protection and Business Regulation and the Committee on Housing and Hawaiian Programs

#### RE-REFERRAL OF SENATE CONCURRENT RESOLUTION

The President then re-referred the following Senate concurrent resolution that was offered:

Senate  
Concurrent  
Resolution Referred to:

No. 1 Committee on Agriculture and Environmental Protection

#### MISCELLANEOUS COMMUNICATION

Misc. Com. No. 4, from the Historic Hawai'i Foundation dated February 4, 1991, transmitting the "Main Street Hawai'i 1990 Annual Report," was read by the Clerk and was placed on file.

Senator Solomon rose to speak on a point of personal privilege as follows:

"Mr. President, both the State Constitution and the statutes give the Office of Hawaiian Affairs and the Department of Hawaiian Home Lands the right to revenues from certain public lands. OHA is entitled to 20 percent of the revenues from the use and disposition of ceded lands, and the Department of Hawaiian Home Lands, 30 percent of the proceeds from the use of public lands leased for sugar cultivation.

"The 1990 Legislature realized that no mechanism existed to insure the fair evaluation of ceded lands and leased sugarcane lands so that the Office of Hawaiian Affairs and the Department of Hawaiian Home Lands would get fair entitlements. Especially when the lands are conveyed among state agencies, the value of the lands are grossly misrepresented. In many instances, the

Department of Land and Natural Resources has transferred lands to the Housing Finance and Development Corporation, especially those in Lahaina, for a nominal fee such as \$1.00, thus depriving the Department of Hawaiian Home Lands of substantial entitlements.

"Mr. President, this report (holds up report) was submitted to the 1991 Legislature. It is a study of revenue and entitlements to the Department of Hawaiian Home Lands. And needless to say, Mr. President, if I had known this at the time I was a member of the Housing and Hawaiian Programs Committee, I would have never agreed to transfer the lands over to HFDC unless this issue of proper compensation to DHHL and OHA had been resolved.

"The auditor of the State of Hawaii in the February 1991 report, which I have referred to, has found the Department of Land and Natural Resources, which is responsible for administering public land trusts, has not met the trust obligations. The Department of Land and Natural Resources has sold, literally, Mr. President, sold sugarcane lands without resolving the issue of entitlements and without fully informing DHHL of significant land transactions. In appraising the value of these lands DLNR has not been consistent. The department has not carried out the statutes requiring it to plan for future uses of its land nor has it consulted with other agencies about potential conflicts in land use between such purposes as housing and agriculture.

"Mr. President, at this time I'd like to recommend to my colleagues, especially to the chairman of the Housing and Hawaiian Programs Committee as well as the chairman of Planning, Land and Water Use Management Committee, that perhaps these two committees should consider a moratorium on all land transactions concerning ceded and sugar lands until these issues are resolved. Thank you."

Senator Crozier also rose on a point of personal privilege and said:

"Mr. President, I'd just like to thank the good Senator from the Kohala Coast in bringing up some valid points. I'd just like to let her be aware that she has my full support in this issue.

"Mr. President, the reason why any lands that are in sugar are either, when they're sold or when they're rented or when they are leased, whatever happens to the lands, the 30 percent carries over is because I put in an amendment in the State Constitution in 1978 to make sure that Hawaiian Home Lands would continue to be a participant in the revenue flow. It is something that I helped create, it was my amendment, and I chose to make this my special project. I will continue to bird-dog this issue to make sure that the native Hawaiian community gets the fair revenues from the lands that the state has control of. Thank you."

Senator Solomon then continued:

"Mr. President, I know that this is a point of personal privilege and I don't intend to debate the issue but I'd like to thank the previous speaker for his remarks. However, I think what this report brings out is the fact that the 'aina' was never appraised. So the statute may say 30 percent, but my question is 30 percent of what? I think that these are the issues that have to be resolved this session.

"The report cited that the 'aina' in Lahaina which was turned over, approximately 1,222 acres, is valued at \$39 million. And this is just a pedestrian off-the-street

appraisal. There has been no official appraisal. So I would like to go back to my previous remarks that this issue should be studied by both the Housing and Hawaiian Programs Committee and the Committee on Planning, Land and Water Use Management to make sure that the appraisals are official and professional so that the Office of Hawaiian Affairs and the Department of Hawaiian Home Lands receive fair entitlements. Thank you."

At 11:52 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:56 o'clock a.m.

#### **ADJOURNMENT**

At 11:57 o'clock a.m., on motion by Senator Solomon, seconded by Senator Reed and carried, the Senate adjourned until 11:30 o'clock a.m., Tuesday, February 12, 1991.