EIGHTEENTH DAY

Tuesday, February 14, 2006

The Senate of the Twenty-Third Legislature of the State of Hawaii, Regular Session of 2006, convened at 11:34 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by the Reverend Derrick Morris, Mililani Baptist Church, after which the Roll was called showing all Senators present with the exception of Senators Hemmings, Ihara and Taniguchi who were excused.

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

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 235 to 244) were read by the Clerk and were placed on file:

Gov. Msg. No. 235, dated January 31, 2006, transmitting the Aloha Tower Development Corporation's Annual Report, pursuant to Section 206J-19, HRS.

Gov. Msg. No. 236, dated February 14, 2006, transmitting the 2005 Annual Report of the Department of Business, Economic, Development and Tourism, pursuant to Section 201-10, HRS.

Gov. Msg. No. 237, letter dated February 10, 2006, as provided in Section 9, Article VII of the Constitution of the State of Hawaii, requesting the immediate consideration and passage of S.B. No. 2333, which makes an emergency appropriation of $416,718 in general funds in Fiscal Year 2005-2006 to maintain the maximum GA benefit payment of $418 per month to 3,850 disabled individuals through the end of the current fiscal year and prevent potential harm to these individuals' health and safety.

Gov. Msg. No. 238, letter dated February 10, 2006, as provided in Section 9, Article VII of the Constitution of the State of Hawaii, requesting the immediate consideration and passage of S.B. No. 2334, which makes an emergency appropriation of $1,320,000 in general funds in Fiscal Year 2005-2006 to assist the Hawaii Youth Correctional Facility in taking the remedial measures recommended by the Department of Justice.

Gov. Msg. No. 239, letter dated February 10, 2006, as provided in Section 9, Article VII of the Constitution of the State of Hawaii, requesting the immediate consideration and passage of S.B. No. 2337, which makes an emergency appropriation of $4,724,703 in general funds in Fiscal Year 2005-2006 to cover expenses related to the ongoing operations at the Hawaii State Hospital and community-based services and requesting an increase in the expenditure ceiling of $6,148,944 for the Mental Health Substance Abuse Special Fund.

Gov. Msg. No. 240, letter dated February 10, 2006, as provided in Section 9, Article VII of the Constitution of the State of Hawaii, requesting the immediate consideration and passage of S.B. No. 2338, which makes an emergency appropriation of $6,807,562 in general funds in Fiscal Year 2005-2006 to cover expenses pursuant to the Medicaid Home and Community Based Service Waiver Program for services to persons with developmental disabilities and/or mental retardation.

Gov. Msg. No. 241, letter dated February 10, 2006, as provided in Section 9, Article VII of the Constitution of the State of Hawaii, requesting the immediate consideration and passage of S.B. No. 2339, which makes an emergency appropriation of $7,154,735 in general and special funds in Fiscal Year 2005-2006 to cover increased costs for emergency medical services, including negotiated collective bargaining costs.

Gov. Msg. No. 242, letter dated February 10, 2006, as provided in Section 9, Article VII of the Constitution of the State of Hawaii, requesting the immediate consideration and passage of S.B. No. 2340, which makes an emergency appropriation of $3,200,928 in general funds in Fiscal Year 2005-2006 to cover increased costs for early intervention services for infants and children from birth to age three at risk of developmental delays.

Gov. Msg. No. 243, letter dated February 10, 2006, as provided in Section 9, Article VII of the Constitution of the State of Hawaii, requesting the immediate consideration and passage of S.B. No. 2347, which makes an emergency appropriation of $1,000,000 in the Early Intervention Special Fund in Fiscal Year 2005-2006 for the Healthy Start program.

Gov. Msg. No. 244, letter dated February 10, 2006, as provided in Section 9, Article VII of the Constitution of the State of Hawaii, requesting the immediate consideration and passage of S.B. No. 2348, which makes an emergency appropriation of $15,000,000 in general funds in Fiscal Year 2005-2006 for pandemic influenza preparedness.

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 20 to 23) were read by the Clerk and were disposed of as follows:

Hse. Com. No. 20, transmitting H.B. No. 1878, which passed Third Reading in the House of Representatives on February 13, 2006, was placed on file.

On motion by Senator Hee, seconded by Senator Hogue and carried, H.B. No. 1878, entitled: "A BILL FOR AN ACT RELATING TO INVESTMENT SECURITIES ACT," passed First Reading by title and was deferred.

Hse. Com. No. 21, transmitting H.B. No. 2313, which passed Third Reading in the House of Representatives on February 13, 2006, was placed on file.

On motion by Senator Hee, seconded by Senator Hogue and carried, H.B. No. 2313, entitled: "A BILL FOR AN ACT RELATING TO BUSINESS REGISTRATION," passed First Reading by title and was deferred.

Hse. Com. No. 22, transmitting H.B. No. 2315, which passed Third Reading in the House of Representatives on February 13, 2006, was placed on file.

On motion by Senator Hee, seconded by Senator Hogue and carried, H.B. No. 2315, entitled: "A BILL FOR AN ACT RELATING TO THE CODE OF FINANCIAL INSTITUTIONS," passed First Reading by title and was deferred.

Hse. Com. No. 23, transmitting H.B. No. 2331, which passed Third Reading in the House of Representatives on February 13, 2006, was placed on file.

On motion by Senator Hee, seconded by Senator Hogue and carried, H.B. No. 2331, entitled: "A BILL FOR AN ACT RELATING TO AN INACTIVE STATUS FOR PROFESSIONAL AND VOCATIONAL LICENSES," passed First Reading by title and was deferred.

STANDING COMMITTEE REPORTS

Senator Inouye, for the Committee on Transportation and Government Operations presented a report (Stand. Com. Rep. No. 2035) recommending that S.B. No. 2459 pass Second Reading and be referred to the Committee on Commerce, Consumer Protection, and Housing.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 2459, entitled: "A BILL FOR AN ACT RELATING TO CONCESSIONS ON PUBLIC PROPERTY," passed Second Reading and was referred to the Committee on Commerce, Consumer Protection, and Housing.

Senator Baker, for the Committee on Health presented a report (Stand. Com. Rep. No. 2036) recommending that S.B. No. 2226 pass Second Reading and be referred to the Committee on Commerce, Consumer Protection, and Housing.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 2226, entitled: "A BILL FOR AN ACT RELATING TO DENTISTS," passed Second Reading and was referred to the Committee on Commerce, Consumer Protection, and Housing.

Senator Baker, for the Committee on Health presented a report (Stand. Com. Rep. No. 2037) recommending that S.B. No. 2347 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 2347, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION TO THE DEPARTMENT OF HEALTH FOR THE FAMILY HEALTH SERVICES DIVISION," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Baker, for the Committee on Health presented a report (Stand. Com. Rep. No. 2038) recommending that S.B. No. 2348 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 2348, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION TO THE DEPARTMENT OF HEALTH FOR PANDEMIC INFLUENZA PREPAREDNESS," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Menor, for the majority of the Committee on Commerce, Consumer Protection, and Housing presented a report (Stand. Com. Rep. No. 2039) recommending that S.B. No. 2092, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the majority of the Committee was adopted and S.B. No. 2092, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PLANNED COMMUNITY ASSOCIATIONS," passed Second Reading and was placed on the calendar for Third Reading on Thursday, February 16, 2006.

Senator Menor, for the Committee on Commerce, Consumer Protection, and Housing presented a report (Stand. Com. Rep. No. 2040) recommending that S.B. No. 2193, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 2193, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PLANNED COMMUNITY ASSOCIATIONS," passed Second Reading and was placed on the calendar for Third Reading on Thursday, February 16, 2006.

Senator Menor, for the Committee on Commerce, Consumer Protection, and Housing presented a report (Stand. Com. Rep. No. 2041) recommending that S.B. No. 2545, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 2545, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONDOMINIUMS," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Menor, for the majority of the Committee on Commerce, Consumer Protection, and Housing presented a report (Stand. Com. Rep. No. 2042) recommending that S.B. No. 2763, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the majority of the Committee was adopted and S.B. No. 2763, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONDOMINIUM PROPERTY REGIMES," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs.

Senator Menor, for the Committee on Commerce, Consumer Protection, and Housing presented a report (Stand. Com. Rep. No. 2043) recommending that S.B. No. 3067, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 3067, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PLANNED COMMUNITY ASSOCIATIONS," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs.

Senator Fukunaga, for the Committee on Media, Arts, Science, and Technology presented a report (Stand. Com. Rep. No. 2044) recommending that S.B. No. 2651 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 2651, entitled: "A BILL FOR AN ACT WAIPAHU CENTENNIAL MEMORIAL," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Fukunaga, for the Committee on Media, Arts, Science, and Technology presented a report (Stand. Com. Rep. No. 2045) recommending that S.B. No. 2716 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 2716, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION TO THE FILIPINO COMMUNITY CENTER," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Fukunaga, for the Committee on Media, Arts, Science, and Technology presented a report (Stand. Com. Rep. No. 2046) recommending that S.B. No. 3222 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 3222, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR RENOVATION OF THE FACADES OF SEVERAL PROPERTIES IN CHINATOWN," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Baker, for the Committee on Health presented a report (Stand. Com. Rep. No. 2047) recommending that S.B. No. 2339, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 2339, S.D. 1, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION TO THE DEPARTMENT OF HEALTH FOR THE EMERGENCY MEDICAL SERVICES SYSTEM BRANCH," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Baker, for the Committee on Health presented a report (Stand. Com. Rep. No. 2048) recommending that S.B. No. 2620 pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 2620, entitled: "A BILL FOR AN ACT RELATING TO AVAILABILITY OF MEDICAL RECORDS," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs.

Senator Baker, for the Committee on Health presented a report (Stand. Com. Rep. No. 2049) recommending that S.B. No. 3261 pass Second Reading and be referred to the Committee on Commerce, Consumer Protection, and Housing.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 3261, entitled: "A BILL FOR AN ACT RELATING TO DENTAL SPECIALISTS," passed Second Reading and was referred to the Committee on Commerce, Consumer Protection, and Housing.

Senator Menor, for the Committee on Commerce, Consumer Protection, and Housing presented a report (Stand. Com. Rep. No. 2050) recommending that S.B. No. 2296, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Commerce, Consumer Protection, and Housing.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 2296, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO NURSES," passed Second Reading and was referred to the Committee on Commerce, Consumer Protection, and Housing.

Senator Taniguchi, for the Committee on Ways and Means presented a report (Stand. Com. Rep. No. 2051) recommending that S.B. No. 2338 pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 2051 and S.B. No. 2338, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION TO THE DEPARTMENT OF HEALTH FOR THE DEVELOPMENTAL DISABILITIES DIVISION," was deferred until Wednesday, February 15, 2006.

ORDER OF THE DAY

REFERRAL OF HOUSE BILLS

MATTERS DEFERRED FROM MONDAY, FEBRUARY 13, 2006

The President made the following committee assignments of House bills received on Monday, February 13, 2006:

House Bill Referred to:

No. 439, H.D. 1 Jointly to the Committee on Transportation and Government Operations and the Committee on Judiciary and Hawaiian Affairs, then to the Committee on Ways and Means

No. 440, H.D. 2 Jointly to the Committee on Health, the Committee on Human Services and the Committee on Transportation and Government Operations, then to the Committee on Ways and Means

No. 462, H.D. 1 Committee on Judiciary and Hawaiian Affairs

No. 1787, H.D. 1 Committee on Human Services, then to the Committee on Judiciary and Hawaiian Affairs

No. 1825, H.D. 1 Jointly to the Committee on Transportation and Government Operations and the Committee on Intergovernmental Affairs, then to the Committee on Judiciary and Hawaiian Affairs

No. 1983, H.D. 1 Committee on Judiciary and Hawaiian Affairs

No. 2114, H.D. 1 Committee on Judiciary and Hawaiian Affairs

No. 2303, H.D. 1 Committee on Judiciary and Hawaiian Affairs, then to the Committee on Ways and Means

No. 2207, H.D. 1 Committee on Judiciary and Hawaiian Affairs

No. 2539, H.D. 1 Committee on Intergovernmental Affairs, then to the Committee on Judiciary and Hawaiian Affairs

No. 2779, H.D. 1 Committee on Human Services, then to the Committee on Judiciary and Hawaiian Affairs

Senator Sakamoto, Chair of the Committee on Education and Military Affairs, requested a waiver of the notice requirement pursuant to Senate Rule 21 for S.B. No. 2733.

Senator Sakamoto noted:

"Mr. President, this bill deals with children with disabilities. The Supreme Court ruled that the burden of proof lies with the child or the child's family. This bill addresses a 90-day statute

of limitation as well as whether we in Hawaii should consider doing something as a state in regard to who has the burden of proof."

The Chair then granted the waiver.

Senator Inouye, Chair of the Committee on Transportation and Government Operations, requested a waiver of the notice requirement pursuant to Senate Rule 21 for S.B. No. 2780.

Senator Inouye noted:

"Mr. President, this bill, S.B. No. 2780, S.D. 1, is relating to harbors. It is a triple referral to TGO/IGA/WLA, WAM and this authorizes the Department of Transportation to partner with a private developer to purchase or lease land for an intra-island ferry or water taxis at West Oahu."

The Chair then granted the waiver.

ADJOURNMENT

At 11:41 o'clock a.m., on motion by Senator Hee, seconded by Senator Hogue and carried, the Senate adjourned until 11:30 o'clock a.m., Wednesday, February 15, 2006.