

SEVENTEENTH DAY

Monday, February 14, 2005

The Senate of the Twenty-Third Legislature of the State of Hawaii, Regular Session of 2005, convened at 11:38 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by the Reverend Bob Nakata, Kahaluu United Methodist Church, after which the Roll was called showing all Senators present with the exception of Senator Hee who was excused.

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

At 11:45 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:49 o'clock a.m.

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 343 to 355) were read by the Clerk and were placed on file:

Gov. Msg. No. 343, dated February 1, 2005, transmitting a Report Regarding the Hawaii Family Leave Law, prepared by the Department of Labor and Industrial Relations pursuant to H.C.R. No. 77 (2004).

Gov. Msg. No. 344, dated February 8, 2005, transmitting a report prepared by the Department of Health, Health Resources Administration, Family Health Services Division, Maternal and Child Health Branch, pursuant to H.C.R. No. 141 (2004), requesting the Department of Health to establish a coordinated statewide effort to address fetal alcohol spectrum disorder.

Gov. Msg. No. 345, dated February 10, 2005, transmitting a Report on the Classification/Compensation Appeals Board, prepared by the Department of Education pursuant to Section 302A-620, HRS.

Gov. Msg. No. 346, dated February 10, 2005, transmitting a Report on Federal and Trust Funds, prepared by the Department of Education pursuant to Section 29-25, HRS.

Gov. Msg. No. 347, letter dated February 9, 2005, notifying the Senate that she has approved the expenditure of non-appropriated federal funds for the Department of Transportation (DOT) in the amount of \$1,807,500, pursuant to Act 200, Section 129, SLH 2003, as amended by Act 41, SLH 2004.

Gov. Msg. No. 348, dated February 10, 2005, transmitting the Annual Report on the School Priority Program, prepared by the Department of Education pursuant to Section 302A-1309, HRS.

Gov. Msg. No. 349, dated February 10, 2005, transmitting a Report on the Education System, prepared by the Department of Education pursuant to Act 51, SLH 2004.

Gov. Msg. No. 350, dated February 10, 2005, transmitting a Report on the Mandatory Expulsion Policy for Possession of a Firearm, prepared by the Department of Education pursuant to Section 302A-1134, HRS.

Gov. Msg. No. 351, dated February 10, 2005, transmitting a Report on the Transfer of Federal Funds for After School A+

Programs, prepared by the Department of Education pursuant to Act 200, SLH 2003.

Gov. Msg. No. 352, dated February 10, 2005, transmitting a Report on No Child Left Behind (NCLB), prepared by the Department of Education pursuant to Act 200, SLH 2003.

Gov. Msg. No. 353, dated February 10, 2005, transmitting a Report on Services to Children with Autism Spectrum Disorder, prepared by the Department of Education pursuant to Act 200, SLH 2003.

Gov. Msg. No. 354, dated February 10, 2005, transmitting the Annual Report on the Teacher Education Coordinating Committee, prepared by the Department of Education pursuant to Section 304-20, HRS.

Gov. Msg. No. 355, dated February 11, 2005, transmitting the Annual Report on Educational Assessment and Accountability, prepared by the Department of Education pursuant to Section 302A-1004, HRS; and the Superintendent's Annual Report on School Performance and Improvement in Hawaii 2003, prepared by the Office of the Superintendent/Planning and Evaluation Office.

STANDING COMMITTEE REPORTS

Senator Menor, for the Committee on Commerce, Consumer Protection and Housing, presented a report (Stand. Com. Rep. No. 30) recommending that S.B. No. 758 pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Senator Baker, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 758, entitled: "A BILL FOR AN ACT RELATING TO SENTENCING OF REPEAT OFFENDERS," 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. 31) recommending that S.B. No. 751, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Baker, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 751, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Kokubun, for the Committee on Water, Land, and Agriculture, presented a report (Stand. Com. Rep. No. 32) recommending that S.B. No. 386, as amended in S.D. 1, pass Second Reading and be recommitted to the Committee on Water, Land, and Agriculture.

On motion by Senator Baker, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 386, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO WATER," passed Second Reading and was recommitted to the Committee on Water, Land, and Agriculture.

Senator Kokubun, for the Committee on Water, Land, and Agriculture, presented a report (Stand. Com. Rep. No. 33) recommending that S.B. No. 361, as amended in S.D. 1, pass

Second Reading and be recommitted to the Committee on Water, Land, and Agriculture.

On motion by Senator Baker, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 361, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," passed Second Reading and was recommitted to the Committee on Water, Land, and Agriculture.

Senator English, for the Committee on Energy, Environment, and International Affairs, presented a report (Stand. Com. Rep. No. 34) recommending that S.B. No. 1428 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Baker, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 1428, entitled: "A BILL FOR AN ACT RELATING TO ENVIRONMENTALLY SUSTAINABLE PRACTICES," passed Second Reading and was referred to the Committee on Ways and Means.

Senator English, for the Committee on Energy, Environment, and International Affairs, presented a report (Stand. Com. Rep. No. 35) recommending that S.B. No. 1298 pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Senator Baker, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 1298, entitled: "A BILL FOR AN ACT RELATING TO ENVIRONMENTAL IMPACT STATEMENTS," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs.

Senator Kanno, for the Committee on Labor, presented a report (Stand. Com. Rep. No. 36) recommending that S.B. No. 290, as amended in S.D. 1, pass Second Reading and be recommitted to the Committee on Labor.

On motion by Senator Baker, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 290, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO COLLECTIVE BARGAINING," passed Second Reading and was recommitted to the Committee on Labor.

Senator Kokubun, for the Committee on Water, Land, and Agriculture, presented a report (Stand. Com. Rep. No. 37) recommending that S.B. No. 1150 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Baker, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 1150, entitled: "A BILL FOR AN ACT RELATING TO DAIRY PRODUCTS," passed Second Reading and was placed on the calendar for Third Reading on Wednesday, February 16, 2005.

Senator Kokubun, for the Committee on Water, Land, and Agriculture, presented a report (Stand. Com. Rep. No. 38) recommending that S.B. No. 1878, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Baker, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 1878, S.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE PURCHASE OF LAND ALONG THE SOUTH KONA-KA`U COASTLINE ON THE ISLAND OF HAWAII," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Hanabusa, for the Committee on Judiciary and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 39) recommending that S.B. No. 1796, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Baker, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 1796, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE DISPOSITION OF CONVICTED DEFENDANTS," passed Second Reading and was placed on the calendar for Third Reading on Wednesday, February 16, 2005.

Senators Kokubun and Ige, for the Committee on Water, Land, and Agriculture and the Committee on Intergovernmental Affairs, presented a joint report (Stand. Com. Rep. No. 40) recommending that S.B. No. 522, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Senator Baker, seconded by Senator Hogue and carried, the joint report of the Committees was adopted and S.B. No. 522, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DRUG REHABILITATION HOMES," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs.

Senator Hanabusa, for the Committee on Judiciary and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 41) recommending that the Senate consent to the nomination of RICHARD THOMAS BISSEN, JR., to the office of Judge, Circuit Court of the Second Circuit, for a term of ten years, in accordance with the provisions of Article VI, Section 3, of the Hawaii State Constitution, and in accordance with Gov. Msg. No. 77.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 41 and Gov. Msg. No. 77 was deferred until Tuesday, February 15, 2005.

Senator Sakamoto, for the Committee on Education and Military Affairs, presented a report (Stand. Com. Rep. No. 42) recommending that S.B. No. 1249 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Baker, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 1249, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Second Reading and was placed on the calendar for Third Reading on Wednesday, February 16, 2005.

Senator Sakamoto, for the Committee on Education and Military Affairs, presented a report (Stand. Com. Rep. No. 43) recommending that S.B. No. 1661, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Baker, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 1661, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Sakamoto, for the Committee on Education and Military Affairs, presented a report (Stand. Com. Rep. No. 44) recommending that S.B. No. 451, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Baker, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 451, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Sakamoto, for the Committee on Education and Military Affairs, presented a report (Stand. Com. Rep. No. 45) recommending that S.B. No. 778 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Baker, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 778, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION FOR SERVICES TO CHILDREN WITH AUTISM SPECTRUM DISORDER, AND FOR SCHOOL-BASED BEHAVIORAL HEALTH SERVICE," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Sakamoto, for the Committee on Education and Military Affairs, presented a report (Stand. Com. Rep. No. 46) recommending that S.B. No. 874 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Baker, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 874, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Sakamoto, for the Committee on Education and Military Affairs, presented a report (Stand. Com. Rep. No. 47) recommending that S.B. No. 1253, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Baker, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 1253, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Second Reading and was placed on the calendar for Third Reading on Wednesday, February 16, 2005.

Senator Sakamoto, for the Committee on Education and Military Affairs, presented a report (Stand. Com. Rep. No. 48) recommending that S.B. No. 1637 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Baker, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 1637, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Second Reading and was referred to the Committee on Ways and Means.

ORDER OF THE DAY

RE-REFERRAL OF SENATE BILLS

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

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| Senate Bill | Referred to: |
| No. 290, S.D. 1 | Committee on Labor, then to the Committee on Ways and Means |
| No. 361, S.D. 1 | Committee on Water, Land, and Agriculture, then to the Committee on Ways and Means |

No. 386, S.D. 1 Committee on Water, Land, and Agriculture, then to the Committee on Ways and Means

No. 544 Committee on Judiciary and Hawaiian Affairs

No. 546 Committee on Judiciary and Hawaiian Affairs

No. 608 Committee on Transportation and Government Operations, then jointly to the Committee on Commerce, Consumer Protection and Housing and the Committee on Judiciary and Hawaiian Affairs

No. 1321 Committee on Judiciary and Hawaiian Affairs

No. 1817 Committee on Education and Military Affairs, then to the Committee on Ways and Means

No. 1875 Committee on Judiciary and Hawaiian Affairs

THIRD READING

At 11:50 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:52 o'clock a.m.

S.B. No. 1680, S.D. 1:

On motion by Senator Kokubun, seconded by Senator Hooser and carried, S.B. No. 1680, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO QUALIFICATIONS OF BOARD MEMBERS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Hee).

At 11:52 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.

S.B. No. 895, S.D. 1:

On motion by Senator Kokubun, seconded by Senator Hooser and carried, S.B. No. 895, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LIMU MANAGEMENT AREA," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Hee).

Senator English, Chair of the Committee on Energy, Environment, and International Affairs, requested a waiver of the notice requirement pursuant to Senate Rule 21 for S.B. No. 1554.

Senator English noted:

"Mr. President, this bill establishes the emergency environmental workforce program."

The Chair then granted the waiver.

Senator Menor, Chair of the Committee on Commerce, Consumer Protection and Housing, requested a waiver of the notice requirement pursuant to Senate Rule 21 for S.B. No. 1170.

Senator Menor noted:

“Mr. President, this bill establishes the crime of abuse of commercial and electronic mail and provides penalties and civil remedies. The bill was previously heard on Wednesday, February 9, 2005. The committee will reconsider its action taken on said bill.”

The Chair then granted the waiver.

ADJOURNMENT

At 11:56 o'clock a.m., on motion by Senator Baker, seconded by Senator Hogue and carried, the Senate adjourned until 11:30 o'clock a.m., Tuesday, February 15, 2005.

Respectfully submitted,

Clerk of the Senate

Approved:

President of the Senate