

EIGHTEENTH DAY

Tuesday, February 12, 2008

The Senate of the Twenty-Fourth Legislature of the State of Hawai'i, Regular Session of 2008, convened at 11:41 a.m. with the President in the Chair.

The Divine Blessing was invoked by Pastor Daryl Yamada, Mililani Missionary Church, after which the Roll was called showing all Senators present.

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

At this time, Senator Taniguchi recognized and commended Bert A. Kobayashi for his leadership and contributions. Accompanying him was his wife Susan.

At 11:47 a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:52 a.m.

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 435 to 442) were read by the Clerk and were placed on file:

Gov. Msg. No. 435, dated January 29, 2008, transmitting a Report of New Administratively Established Appropriations from November 1, 2006 to October 31, 2007, prepared by the Department of Budget and Finance pursuant to Act 178, SLH 2002.

Gov. Msg. No. 436, dated January 29, 2008, transmitting a Report of the State Facilities Energy Management Advisory Committee, prepared by the Department of Business, Economic Development and Tourism pursuant to Act 96, SLH 2006.

Gov. Msg. No. 437, dated January 25, 2008, transmitting a Lead by Example State of Hawaii Agencies' Energy Initiatives Report for FY 2006-2007, prepared by the Department of Business, Economic Development and Tourism pursuant to Act 96, SLH 2006 and Act 160, Section 168.5, SLH 2006.

Gov. Msg. No. 438, dated January 31, 2008, transmitting the 2007 Annual Report of the Hawaii Strategic Development Corporation, prepared by the Department of Business, Economic Development and Tourism, Hawaii Strategic Development Corporation, pursuant to Chapter 211F, HRS.

Gov. Msg. No. 439, dated February 1, 2008, transmitting a Report on the Congresswoman Patsy T. Mink Commission for the period December 16, 2006 through December 15, 2007, pursuant to Act 92, SLH 2006.

Gov. Msg. No. 440, dated February 1, 2008, transmitting a Report on the Strengthening Keiki of Incarcerated Parents Program, prepared by the Department of Public Safety, Corrections Program Services Division, Education Services Branch, pursuant to Act 250, SLH 2006.

Gov. Msg. No. 441, dated February 12, 2008, transmitting the Gender Responsive Programs Report, prepared by the Office of Youths Services, Department of Human Services, pursuant to Act 258, Section 2, SLH 2007.

Gov. Msg. No. 442, dated February 1, 2008, transmitting Reports on the Return of Out-of-State Inmates; Inmate Transition and Reentry into the Community; Inmate Reentry into the Community; and Tax Incentives for Employers Who Hire Ex-Inmates, prepared by the Department of Public Safety pursuant to Act 8, SLH 2007.

DEPARTMENTAL COMMUNICATIONS

The following communications (Dept. Com. Nos. 26 and 27) were read by the Clerk and were placed on file:

Dept. Com. No. 26, from the Department of Health dated January 8, 2008, transmitting the Hawaii Physical Activity and Nutrition Plan 2007-2012, pursuant to Act 304, SLH 1999.

Dept. Com. No. 27, from the Department of Business, Economic Development and Tourism dated February 6, 2008, transmitting the 2006 State of Hawaii Data Book - A Statistical Abstract.

SENATE CONCURRENT RESOLUTIONS

The following concurrent resolutions (S.C.R. Nos. 58 and 59) were read by the Clerk and were deferred:

Senate Concurrent Resolution

S.C.R. No. 58 "SENATE CONCURRENT RESOLUTION ESTABLISHING A TASK FORCE TO REVIEW THE RETIREMENT AGE FOR STATE COURT JUSTICES AND JUDGES; THE TERMS OF AND POSSIBLE TERM LIMITS FOR STATE COURT JUSTICES AND JUDGES; THE POSSIBILITY OF ESTABLISHING A SENIOR JUDGE SYSTEM FOR STATE COURT JUSTICES AND JUDGES; JUDICIAL ACCOUNTABILITY AND FITNESS IN THE STATE OF HAWAII; AND RELATED MATTERS."

Offered by: Senator Hanabusa, by request.

S.C.R. No. 59 "SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES IN COOPERATION WITH THE DEPARTMENT OF TRANSPORTATION TO CONDUCT A STUDY AS TO THE FEASIBILITY OF PROVIDING A PERMANENT PORT AND DOCK FACILITY FOR THE VOYAGING CANOES HOKULE'A, MAKALI'I, HOKUALAKA'I, NANAHOE, AND MO'OKIHA."

Offered by: Senator Hanabusa, by request.

SENATE RESOLUTIONS

The following resolutions (S.R. Nos. 30 to 32) were read by the Clerk and were deferred or adopted:

Senate Resolution

S.R. No. 30 "SENATE RESOLUTION ESTABLISHING A TASK FORCE TO REVIEW THE RETIREMENT AGE FOR STATE COURT JUSTICES AND JUDGES; THE TERMS OF AND POSSIBLE TERM LIMITS FOR STATE COURT JUSTICES AND JUDGES; THE POSSIBILITY OF ESTABLISHING A SENIOR JUDGE SYSTEM FOR STATE COURT JUSTICES AND JUDGES; JUDICIAL ACCOUNTABILITY AND FITNESS IN THE STATE OF HAWAII; AND RELATED MATTERS."

Offered by: Senator Hanabusa, by request.

S.R. No. 31 "SENATE RESOLUTION REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES IN COOPERATION WITH THE DEPARTMENT OF TRANSPORTATION TO CONDUCT A STUDY AS TO THE FEASIBILITY OF PROVIDING A PERMANENT PORT AND DOCK FACILITY FOR THE VOYAGING CANOES HOKULE'A, MAKALI'I, HOKUALAKA'I, NANAHOE, AND MO'OKIHA."

Offered by: Senator Hanabusa, by request.

S.R. No. 32 "SENATE RESOLUTION AMENDING THE SENATE ADMINISTRATIVE AND FINANCIAL MANUAL OF THE SENATE OF THE TWENTY-FOURTH LEGISLATURE."

Offered by: Senator Kim.

On motion by Senator Ige, seconded by Senator Whalen and carried, S.R. No. 32 was adopted.

STANDING COMMITTEE REPORTS

Senator Tokuda, for the majority of the Committee on Agriculture and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 2185) recommending that S.B. No. 2215, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary and Labor.

On motion by Senator Ige, seconded by Senator Whalen and carried, the report of the majority of the Committee was adopted and S.B. No. 2215, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MEAT," passed Second Reading and was referred to the Committee on Judiciary and Labor.

Senator Tokuda, for the Committee on Agriculture and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 2186) recommending that S.B. No. 2955, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary and Labor.

On motion by Senator Ige, seconded by Senator Whalen and carried, the report of the Committee was adopted and S.B. No. 2955, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURAL INSPECTIONS," passed Second Reading and was referred to the Committee on Judiciary and Labor.

Senator Tokuda, for the Committee on Agriculture and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 2187) recommending that S.B. No. 2643, 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. 2643, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO IRRIGATION," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Tokuda, for the Committee on Agriculture and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 2188) recommending that S.B. No. 2925, 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. 2925, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Fukunaga, for the Committee on Economic Development and Taxation, presented a report (Stand. Com. Rep. No. 2189) recommending that S.B. No. 2153 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. 2153, entitled: "A BILL FOR AN ACT RELATING TO INCOME TAX CREDIT," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Fukunaga, for the Committee on Economic Development and Taxation, presented a report (Stand. Com.

Rep. No. 2190) recommending that S.B. No. 2303 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. 2303, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE PACIFIC AVIATION MUSEUM PEARL HARBOR," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Fukunaga, for the Committee on Economic Development and Taxation, presented a report (Stand. Com. Rep. No. 2191) recommending that S.B. No. 2745 pass Second Reading and be referred to the Committee on Judiciary and Labor.

On motion by Senator Ige, seconded by Senator Whalen and carried, the report of the Committee was adopted and S.B. No. 2745, entitled: "A BILL FOR AN ACT RELATING TO DEFAMATION," passed Second Reading and was referred to the Committee on Judiciary and Labor.

Senators Fukunaga and Nishihara, for the Committee on Economic Development and Taxation and the Committee on Tourism and Government Operations, presented a joint report (Stand. Com. Rep. No. 2192) recommending that S.B. No. 2340 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 joint report of the Committees was adopted and S.B. No. 2340, entitled: "A BILL FOR AN ACT RELATING TO AEROSPACE DEVELOPMENT," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Fukunaga, for the Committee on Economic Development and Taxation, presented a report (Stand. Com. Rep. No. 2193) recommending that S.B. No. 2487, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Water and Land.

On motion by Senator Ige, seconded by Senator Whalen and carried, the report of the Committee was adopted and S.B. No. 2487, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LANDS," passed Second Reading and was referred to the Committee on Water and Land.

Senator Fukunaga, for the Committee on Economic Development and Taxation, presented a report (Stand. Com. Rep. No. 2194) recommending that H.B. No. 1755, H.D. 1, 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 H.B. No. 1755, H.D. 1, 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 Ways and Means.

Senator Fukunaga, for the Committee on Economic Development and Taxation, presented a report (Stand. Com. Rep. No. 2195) recommending that S.B. No. 2030, 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. 2030, 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 Ways and Means.

Senator Fukunaga, for the Committee on Economic Development and Taxation, presented a report (Stand. Com. Rep. No. 2196) recommending that S.B. No. 2283, 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. 2283, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII CAPITAL CULTURAL HERITAGE AREA," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Fukunaga, for the Committee on Economic Development and Taxation, presented a report (Stand. Com. Rep. No. 2197) recommending that S.B. No. 2583, 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. 2583, S.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE HAWAII CAPITAL CULTURAL DISTRICT," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Fukunaga, for the Committee on Economic Development and Taxation, presented a report (Stand. Com. Rep. No. 2198) recommending that S.B. No. 2458, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary and Labor.

On motion by Senator Ige, seconded by Senator Whalen and carried, the report of the Committee was adopted and S.B. No. 2458, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CRIMINAL IMPERSONATION," passed Second Reading and was referred to the Committee on Judiciary and Labor.

Senator Fukunaga, for the Committee on Economic Development and Taxation, presented a report (Stand. Com. Rep. No. 2199) recommending that S.B. No. 2456, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary and Labor.

On motion by Senator Ige, seconded by Senator Whalen and carried, the report of the Committee was adopted and S.B. No. 2456, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HARASSMENT," passed Second Reading and was referred to the Committee on Judiciary and Labor.

Senator Ige, for the Committee on Health, presented a report (Stand. Com. Rep. No. 2200) recommending that S.B. No. 2742 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. 2742, entitled: "A BILL FOR AN ACT AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS AND MAKING AN APPROPRIATION FOR THE MAUI REGION OF THE HAWAII HEALTH SYSTEMS CORPORATION," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Ige, for the Committee on Health, presented a report (Stand. Com. Rep. No. 2201) recommending that S.B. No. 2741 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. 2741, entitled: "A BILL FOR AN ACT AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS AND MAKING AN APPROPRIATION FOR THE MAUI REGION OF THE HAWAII HEALTH SYSTEMS CORPORATION," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Ige, for the Committee on Health, presented a report (Stand. Com. Rep. No. 2202) recommending that S.B. No. 2397, 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. 2397, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST CASTLE MEDICAL CENTER AND ITS AFFILIATES," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Ige, for the Committee on Health, presented a report (Stand. Com. Rep. No. 2203) recommending that S.B. No. 2515, 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. 2515, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MOLOKAI GENERAL HOSPITAL," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Sakamoto, for the majority of the Committee on Education, presented a report (Stand. Com. Rep. No. 2204) recommending that S.B. No. 2233 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 majority of the Committee was adopted and S.B. No. 2233, entitled: "A BILL FOR AN ACT RELATING TO ESTABLISHING A GLOBAL YOUTH CENTER," passed Second Reading and was referred to the Committee on Ways and Means.

Senators Sakamoto and Fukunaga, for the Committee on Education and the Committee on Economic Development and Taxation, presented a joint report (Stand. Com. Rep. No. 2205) recommending that S.B. No. 2689, 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 joint report of the Committees was adopted and S.B. No. 2689, S.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR SCIENCE AND TECHNOLOGY IN PUBLIC EDUCATION," passed Second Reading and was referred to the Committee on Ways and Means.

Senators Sakamoto and Menor, for the Committee on Education and the Committee on Energy and Environment, presented a joint report (Stand. Com. Rep. No. 2206) recommending that S.B. No. 2571, 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 joint report of the Committees was adopted and S.B. No. 2571, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FOOD WASTE RECYCLING," passed Second Reading and was referred to the Committee on Ways and Means.

Senators Sakamoto and Taniguchi, for the Committee on Education and the Committee on Judiciary and Labor, presented a joint report (Stand. Com. Rep. No. 2207) recommending that S.B. No. 2879, 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 joint report of the Committees was adopted and S.B. No. 2879, 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 Chun Oakland, for the Committee on Human Services and Public Housing, presented a report (Stand. Com. Rep. No. 2208) recommending that S.B. No. 2208 pass Second Reading and be referred to the Committee on Judiciary and Labor.

On motion by Senator Ige, seconded by Senator Whalen and carried, the report of the Committee was adopted and S.B. No. 2208, entitled: “A BILL FOR AN ACT RELATING TO DOMESTIC VIOLENCE,” passed Second Reading and was referred to the Committee on Judiciary and Labor.

Senator Chun Oakland, for the Committee on Human Services and Public Housing, presented a report (Stand. Com. Rep. No. 2209) recommending that S.B. No. 3173 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. 3173, entitled: “A BILL FOR AN ACT RELATING TO KUKUI GARDENS,” passed Second Reading and was referred to the Committee on Ways and Means.

Senator Chun Oakland, for the Committee on Human Services and Public Housing, presented a report (Stand. Com. Rep. No. 2210) recommending that S.B. No. 3052, 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. 3052, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO COMMUNITY CARE FOSTER FAMILY HOMES,” passed Second Reading and was referred to the Committee on Ways and Means.

Senator Chun Oakland, for the Committee on Human Services and Public Housing, presented a report (Stand. Com. Rep. No. 2211) recommending that S.B. No. 2219, 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. 2219, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO PUBLIC ASSISTANCE,” passed Second Reading and was referred to the Committee on Ways and Means.

Senator Chun Oakland, for the Committee on Human Services and Public Housing, presented a report (Stand. Com. Rep. No. 2212) recommending that S.B. No. 2245 pass Second Reading and be referred to the Committee on Judiciary and Labor.

On motion by Senator Ige, seconded by Senator Whalen and carried, the report of the Committee was adopted and S.B. No. 2245, entitled: “A BILL FOR AN ACT RELATING TO UNATTENDED CHILDREN IN MOTOR VEHICLES,” passed Second Reading and was referred to the Committee on Judiciary and Labor.

Senator Chun Oakland, for the Committee on Human Services and Public Housing, presented a report (Stand. Com. Rep. No. 2213) recommending that S.B. No. 3058, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary and Labor.

On motion by Senator Ige, seconded by Senator Whalen and carried, the report of the Committee was adopted and S.B. No. 3058, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO CHILD WELFARE SERVICES,” passed Second Reading and was referred to the Committee on Judiciary and Labor.

Senator Chun Oakland, for the Committee on Human Services and Public Housing, presented a report (Stand. Com. Rep. No. 2214) recommending that S.B. No. 2839, 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. 2839, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO FINANCIAL EDUCATION,” passed Second Reading and was referred to the Committee on Ways and Means.

Senator Chun Oakland, for the Committee on Human Services and Public Housing, presented a report (Stand. Com. Rep. No. 2215) recommending that S.B. No. 2731, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary and Labor.

On motion by Senator Ige, seconded by Senator Whalen and carried, the report of the Committee was adopted and S.B. No. 2731, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO CHILD PROTECTION,” passed Second Reading and was referred to the Committee on Judiciary and Labor.

Senator Chun Oakland, for the Committee on Human Services and Public Housing, presented a report (Stand. Com. Rep. No. 2216) recommending that S.B. No. 3051, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary and Labor.

On motion by Senator Ige, seconded by Senator Whalen and carried, the report of the Committee was adopted and S.B. No. 3051, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO CRIMINAL HISTORY BACKGROUND CHECKS FOR SOCIAL SERVICES PROGRAMS,” passed Second Reading and was referred to the Committee on Judiciary and Labor.

Senator Chun Oakland, for the Committee on Human Services and Public Housing, presented a report (Stand. Com. Rep. No. 2217) recommending that S.B. No. 2758, 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. 2758, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO AN AUDIT OF THE HAWAII DISABILITY RIGHTS CENTER,” passed Second Reading and was referred to the Committee on Ways and Means.

Senators Ige and Sakamoto, for the Committee on Health and the Committee on Education, presented a joint report (Stand. Com. Rep. No. 2218) recommending that S.B. No. 2673, 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 joint report of the Committees was adopted and S.B. No. 2673, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE CANCER RESEARCH SPECIAL FUND,” passed Second Reading and was referred to the Committee on Ways and Means.

Senators Hee and Inouye, for the Committee on Water and Land and the Committee on Intergovernmental and Military Affairs, presented a joint report (Stand. Com. Rep. No. 2219) recommending that S.B. No. 2525, 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 joint report of the Committees was adopted and S.B. No. 2525, S.D. 1, entitled: “A BILL FOR AN ACT MAKING AN APPROPRIATION FOR ACQUISITION OF A PUBLIC RIGHT OF ACCESS TO HAENA BEACH PARK,” passed

Second Reading and was referred to the Committee on Ways and Means.

Senator Ige, for the Committee on Health, presented a report (Stand. Com. Rep. No. 2220) recommending that S.B. No. 3130, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Commerce, Consumer Protection and Affordable Housing.

On motion by Senator Ige, seconded by Senator Whalen and carried, the report of the Committee was adopted and S.B. No. 3130, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO NURSING," passed Second Reading and was referred to the Committee on Commerce, Consumer Protection and Affordable Housing.

Senator Ige, for the Committee on Health, presented a report (Stand. Com. Rep. No. 2221) recommending that S.B. No. 2104 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. 2104, entitled: "A BILL FOR AN ACT RELATING TO THE ORGAN DONOR REGISTRY," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Ige, for the Committee on Health, presented a report (Stand. Com. Rep. No. 2222) recommending that S.B. No. 2622, 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. 2622, S.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR AUTOMATED EXTERNAL DEFIBRILLATORS AT THE STATE CAPITOL," 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. 2223), recommending that S.B. No. 520, S.D. 1, 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. 520, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INTERNATIONAL AFFAIRS," was referred to the Committee on Ways and Means.

Senator Kokubun, for the Committee on Commerce, Consumer Protection and Affordable Housing, presented a report (Stand. Com. Rep. No. 2224) recommending that S.B. No. 2313 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. 2313, 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 Commerce, Consumer Protection and Affordable Housing, presented a report (Stand. Com. Rep. No. 2225) recommending that S.B. No. 3197, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary and Labor.

On motion by Senator Ige, seconded by Senator Whalen and carried, the report of the Committee was adopted and S.B. No. 3197, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO IMMIGRATION CONSULTANTS," passed Second Reading and was referred to the Committee on Judiciary and Labor.

Senator Kokubun, for the Committee on Commerce, Consumer Protection and Affordable Housing, presented a report (Stand. Com. Rep. No. 2226) recommending that S.B. No. 3021, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary and Labor.

On motion by Senator Ige, seconded by Senator Whalen and carried, the report of the Committee was adopted and S.B. No. 3021, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO VIATICAL SETTLEMENTS," passed Second Reading and was referred to the Committee on Judiciary and Labor.

Senator Kokubun, for the Committee on Commerce, Consumer Protection and Affordable Housing, presented a report (Stand. Com. Rep. No. 2227) recommending that S.B. No. 3008, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary and Labor.

On motion by Senator Ige, seconded by Senator Whalen and carried, the report of the Committee was adopted and S.B. No. 3008, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE CODE OF FINANCIAL INSTITUTIONS," passed Second Reading and was referred to the Committee on Judiciary and Labor.

Senator Kokubun, for the Committee on Commerce, Consumer Protection and Affordable Housing, presented a report (Stand. Com. Rep. No. 2228) recommending that S.B. No. 3007, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary and Labor.

On motion by Senator Ige, seconded by Senator Whalen and carried, the report of the Committee was adopted and S.B. No. 3007, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO BUSINESS REGISTRATION," passed Second Reading and was referred to the Committee on Judiciary and Labor.

Senator Kokubun, for the majority of the Committee on Commerce, Consumer Protection and Affordable Housing, presented a report (Stand. Com. Rep. No. 2229) recommending that S.B. No. 2627, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary and Labor.

On motion by Senator Ige, seconded by Senator Whalen and carried, the report of the majority of the Committee was adopted and S.B. No. 2627, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO COPPER PURCHASES," passed Second Reading and was referred to the Committee on Judiciary and Labor.

Senator Kokubun, for the Committee on Commerce, Consumer Protection and Affordable Housing, presented a report (Stand. Com. Rep. No. 2230) recommending that S.B. No. 2782, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary and Labor.

On motion by Senator Ige, seconded by Senator Whalen and carried, the report of the Committee was adopted and S.B. No. 2782, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO METAL," passed Second Reading and was referred to the Committee on Judiciary and Labor.

Senator Kokubun, for the Committee on Commerce, Consumer Protection and Affordable Housing, presented a report (Stand. Com. Rep. No. 2231) recommending that S.B. No. 2893, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary and Labor.

On motion by Senator Ige, seconded by Senator Whalen and carried, the report of the Committee was adopted and S.B. No. 2893, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TORTS," passed Second Reading and was referred to the Committee on Judiciary and Labor.

Senator Kokubun, for the Committee on Commerce, Consumer Protection and Affordable Housing, presented a report (Stand. Com. Rep. No. 2232) recommending that S.B. No. 2896, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary and Labor.

On motion by Senator Ige, seconded by Senator Whalen and carried, the report of the Committee was adopted and S.B. No. 2896, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONTRACTORS," passed Second Reading and was referred to the Committee on Judiciary and Labor.

Senator Kokubun, for the Committee on Commerce, Consumer Protection and Affordable Housing, presented a report (Stand. Com. Rep. No. 2233) recommending that S.B. No. 2958, 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. 2958, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ENHANCED 911 SERVICES FOR MOBILE PHONES," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Kokubun, for the Committee on Commerce, Consumer Protection and Affordable Housing, presented a report (Stand. Com. Rep. No. 2234) recommending that S.B. No. 3011, 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. 3011, 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 Commerce, Consumer Protection and Affordable Housing, presented a report (Stand. Com. Rep. No. 2235) recommending that S.B. No. 3030, 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. 3030, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MIXED MARTIAL ARTS," passed Second Reading and was referred to the Committee on Ways and Means.

Senators Fukunaga and Sakamoto, for the Committee on Economic Development and Taxation and the Committee on Education, presented a joint report (Stand. Com. Rep. No. 2236) recommending that S.B. No. 3168, 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 joint report of the Committees was adopted and S.B. No. 3168, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CREATIVE MEDIA," passed Second Reading and was referred to the Committee on Ways and Means.

ORDER OF THE DAY

THIRD READING

S.B. No. 2252:

Senator Nishihara moved that S.B. No. 2252, having been read throughout, pass Third Reading, seconded by Senator Kim.

Senator Trimble rose to speak against the measure as follows:

"Madam President, I rise to speak against S.B. No. 2252.

"Colleagues, I call your attention to the opening sentence: the legislature finds that there is an irreconcilable conflict of interest, a conflict of interest exists, when the ex officio member of a board or commission, who is usually the department director, is also the chair of the board or commission. And I'm just curious how the Legislature found that this was true. And was it at the public hearing? Because the testimony, it seemed to me, was in opposition to this measure. There was no finding at that public hearing that there was an irreconcilable difference. Or was it an epiphany that suddenly came in the night and suddenly, after 40 years of the state operating in this way, that some member suddenly decided that there was a conflict of interest?"

"Colleagues, this is a form of governance that exists in the public as well as the private sector, not only in Hawai'i but throughout the United States and around the world. If there was an irreconcilable conflict of interest, why would this form of government be so widespread? I think we have to ask ourselves 'What is the motivation behind this bill?' If we are trying to get the attention of the fifth floor, wouldn't it be more convenient just to pick up the phone and call? Do we really need to spend our time debating this piece of legislation? If there were a conflict of interest, existing governance allows the chairman of the department, the head of the board to recuse himself from a vote. We have ethics laws and the board is empowered by the Constitution. If they find that a director or the chairman of the board is not acting to their liking, they can remove him.

"I don't find, in conclusion, I don't find that the Legislature is justified in finding this set of findings; it didn't come from the public hearing. This is a very widespread form of governance that has existed for many years, not only around the United States but in Hawai'i, so why is it today suddenly it's a problem? No explanation has been given. This is a bad law, and you should vote against it. Thank you."

Senator Hemmings rose to speak against the measure and said:

Madam President, I rise to speak against S.B. No. 2252. I'll be brief.

"The previous speaker outlined the reasons why this Body would be dishonored to pass this legislation. And I would like to hearken back just 18 days ago to the opening day when both parties pledged to work in an honorable manner, in a bipartisan manner, to do the people's business.

"This bill reeks of petty politics at the worst, and it seems targeted right at the Governor's Office and the Chairman of the Department of Land and Natural Resources and the Department of Agriculture, who it would immediately affect. I think we're better than this. I urge my colleagues to send this back to committee or have a reconsideration and put a stop to it. It's just the type of petty politics that the people of Hawai'i, I might say, and I do think maybe the people of the nation are sick of. I pledged to leadership on your side of the aisle not to be partisan and not to be personal in some of these things. But I also pledged that if we were attacked or the Governor was thwarted in some manner that seemed partisan I would rise to defend the executive branch of government. And this is just the kind of bill that there's just no call for it.

"Please, Majority Party, reconsider this. This is below us. Thank you, Madam President."

Senator Kim rose to speak in support of the measure as follows:

"Madam President, I support S.B. No. 2252 and speak in favor.

“Madam President, the boards and commissions should be represented by the public. That’s the whole purpose of our boards and commissions, so that the public have the opportunity to weigh in to government. It was never intended for the administrative or the legislative body to have undue influence on these boards. And what’s been happening in such, is that when you have a department head that is the chairman of a particular board or commission—and I’ve been told by some of the members—that there tend to be undue influence on that board. And it’s not the public that’s being represented but is guided and manipulated by the chairman in many cases. And it’s not just directed at the directors, it’s often we may have an interim appointee, we may have someone whose name is withdrawn—and we’ve seen this happen—withdrawn from appointment because they cannot get the support of the confirmation from the Senate and they get appointed as an interim appointee and they become chair of that particular board and commission.

“So, this is not petty politics. This is just a manner in which to insure that these boards and commissions are independent and they are serving and they are subject to the public, and not necessarily administration whoever is upstairs, whether it be a Democrat or Republican. Thank you.”

Senator Hemmings rose to speak in rebuttal and stated:

“Madam President, I stand in rebuttal.

“Madam President, I beg to differ with the previous speaker. I think her utterances are contradicted by Hawai’i Revised Statutes 26-15 and 26-16, which constitute the Department of Land and Natural Resources Board, and Department of Agriculture. Section B of both those laws say the chairperson of the board shall serve in a fulltime capacity; thus, this does not preempt conflict of interest, if that is indeed what she’s trying to say to rationalize passage of this law.

“This is just what it appears to be. It’s petty politics at its worst, trying to thwart the executive branch of government. And I might echo the utterances of the previous speaker, two speakers ago, the good Senator from Downtown-Waikiki. This situation’s been in existence for 40 years. Why now? Why now this great epiphany, as the previous Senator said, of self-righteousness in order to eliminate this conflict? It’s been on the books for 40 years; the law states exactly what it should be and this is just what I deem it to be—politics at its worst aimed at the executive branch of government.

“Once again, Majority Party, the people we serve deserve better. Let’s spend our time on laws that help people, not thwart the executive branch of government. Thank you, Madam President.”

At 12:02 p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:18 p.m.

Senator Ihara rose to speak in favor of the measure and said:

“Madam President, I’d like to stand in favor of this bill.

“We have consulted our Majority Attorney, and we are satisfied that this bill does not remove the Director of the Department of Land and Natural Resources from being the Chair of the Board of Land and Natural Resources. Nor does it remove the Department of Health Director as the Chair of the Board of Health. Nor does it remove the Director of the Department of Agriculture from being Chair of the Board of Agriculture.

“It would, however, affect where the Land and Natural Resources Director is an ex officio member on the Board of Agriculture. The Land Board Chair could not be the Ag Board

Chair, so that would be affected. I think this bill simply clarifies the intent that it was never the intent for an ex officio, other than those situations I mentioned, an ex officio or an interim board member from being the chair of that such board. Thank you.”

Senator Trimble rose again to speak in opposition as follows:

“Madam President, I rise to reiterate a couple previous comments in opposition to S.B. No 2252.

“Colleagues, how much time have we spent on this ditty? There’s probably an appropriate word that could be used, and if you don’t understand it, please refer to *Webster*; it’s called cahootery. Pure and simple, if you went to the one hearing that was held—and this was a single referral bill—there was no public outcry talking about the problem. Apparently, one or more members of this Chamber had an epiphany, because it wasn’t from the public.

“Having a board where the head of the board is also the chair of the department is a structure. Now, I don’t think that clarifying needed to be done to prevent the head of DLNR to be the Chairman of the Board of Agriculture or something like that because that problem has never occurred. So, again I ask, ‘Why is this piece of legislation center stage this early in the Legislature with the full scrutiny of our free press to report what is going on?’ And my, what fun they could have with this bill if it proceeds.

“I encourage you to listen to the voice of reason and cast a ‘nay’ vote. Thank you.”

Senator Hooser rose to speak in support of the measure as follows:

“Madam President, I rise in support of this measure. I’ll keep my remarks brief. We’ve already had far too much discussion.

“The bill as presented is clear and self-explanatory, and to counter some of the previous remarks, this does not impact the Department of Land and Natural Resources or the Board of Agriculture. This bill merely says that if you’re ex officio or interim, you cannot serve as the chair.

“And having, like many of us here, much experience working with boards and commissions, it’s my personal experience that the public participation on these boards and commissions is inhibited, if you would, oftentimes by the staff and the people in the department. And I think as much as possible, we should encourage that the public members of these boards and commissions serve in positions of leadership and take responsibility for the decisions they make. And this measure, I believe, will help move that process forward and insure that we have stronger boards and commissions in the future. Thank you, Madam President.”

The motion was put by the Chair and carried, S.B. No. 2252, entitled: “A BILL FOR AN ACT RELATING TO BOARDS AND COMMISSIONS,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, 3 (Hemmings, Slom, Trimble). Excused, 3 (Bunda, English, Hee).

RE-REFERRAL OF A SENATE BILL

The Chair re-referred the following Senate bill that was introduced:

Senate Bill Referred to:

S.B. No. 2864 Jointly to the Committee on Commerce, Consumer Protection and Affordable Housing and the

Committee on Health, then to the Committee on Ways and Means

Senator Ige, Chair of the Health, requested a waiver of the notice requirement pursuant to Senate Rule 21 for the following Senate Bills:

S.B. No. 2314;
S.B. No. 3257; and
S.B. No. 3258.

Senator Ige noted:

“Madam President, S.B. No. 3257 and S.B. No. 3258 are products of the Hawaii Association of Hospitals and they were developed in collaboration with a lot of members focused on resolving the waitlist programs and problems in the Hospitals.

“S.B. No. 2314 is relating to allowing small insurers to offer different types of insurance.

“These bills will be added to our hearing agenda tomorrow jointly with the Committee on Human Services.”

The Chair granted the waiver.

Senator Taniguchi, Chair of the Judiciary and Labor, requested a waiver of the notice requirement pursuant to Senate Rule 21 for the following Senate Bills:

S.B. No. 2262;
S.B. No. 2605;
S.B. No. 2806; and
S.B. No. 3216.

Senator Taniguchi noted:

“Madam President, I had not intended to hear these bills but have been prevailed upon by a number of members to hear these bills.

“Also, with regard to S.B. No. 2806, I had inadvertently left it off a previous agenda.”

The Chair granted the waiver.

ADJOURNMENT

At 12:27 p.m., on motion by Senator Ige, seconded by Senator Whalen and carried, the Senate adjourned until 11:30 a.m., Wednesday, February 13, 2008.