

TWENTY-SIXTH DAY

Monday, March 8, 2010

The Senate of the Twenty-Fifth Legislature of the State of Hawai'i, Regular Session of 2010, convened at 11:34 a.m. with the President in the Chair.

The Divine Blessing was invoked by Mr. Ernest Morikubo, Mo'ili'ili Hongwanji, after which the Roll was called showing all Senators present with the exception of Senators Ihara and Kim who were excused.

The President announced that she had read and approved the Journal of the Twenty-Fifth Day.

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 346 to 355) were read by the Clerk and were disposed of as follows:

Gov. Msg. No. 346, dated March 1, 2010, transmitting the Hawaii Community Development Authority's 2009 Annual Report, was placed on file.

Gov. Msg. No. 347, submitting for consideration and confirmation to the Commission on Fatherhood, the nomination of CHESTER JAMES ADESSA, JR., term to expire June 30, 2011, was referred to the Committee on Human Services.

Gov. Msg. No. 348, submitting for consideration and confirmation to the State Council on Developmental Disabilities, the nomination of TIFFANY R. VARA, term to expire June 30, 2011, was referred to the Committee on Health.

Gov. Msg. No. 349, submitting for consideration and confirmation to the State Council on Developmental Disabilities, the nomination of BARBARA A. IOLI, term to expire June 30, 2014, was referred to the Committee on Health.

Gov. Msg. No. 350, submitting for consideration and confirmation to the Mental Health and Substance Abuse, Hawai'i Service Area Board, the nomination of COLLEEN O'SULLIVAN, term to expire June 30, 2011, was referred to the Committee on Health.

Gov. Msg. No. 351, submitting for consideration and confirmation to the Language Access Advisory Council, the nomination of EDELENE O. URIARTE, term to expire June 30, 2014, was referred to the Committee on Judiciary and Government Operations.

Gov. Msg. No. 352, submitting for consideration and confirmation to the Commission on Transportation, the nomination of MICHAEL TRESLER, CPA, term to expire June 30, 2011, was referred to the Committee on Transportation, International and Intergovernmental Affairs.

Gov. Msg. No. 353, submitting for consideration and confirmation to the Board of Directors of the Hawai'i Tourism Authority, the nomination of PATRICK K. FITZGERALD, term to expire June 30, 2014, was referred to the Committee on Tourism.

Gov. Msg. No. 354, submitting for consideration and confirmation to the Board of Directors of the Agribusiness Development Corporation, the nomination of MARISSA SANDBLOM, term to expire June 30, 2013, was referred to the Committee on Water, Land, Agriculture, and Hawaiian Affairs.

Gov. Msg. No. 355, submitting for consideration and confirmation to the Hawaiian Homes Commission, the nomination of STUART K. HANCHETT, term to expire

June 30, 2013, was referred to the Committee on Water, Land, Agriculture, and Hawaiian Affairs.

HOUSE COMMUNICATION

The following communication from the House (Hse. Com. No. 259) was read by the Clerk and was disposed of as follows:

Hse. Com. No. 259, returning S.B. No. 2602, as amended in H.D. 1, which passed Third Reading in the House of Representatives on March 5, 2010, was placed on file.

Senator Baker moved that the Senate agree to the amendments proposed by the House to S.B. No. 2602, seconded by Senator Ige.

Senator Baker noted:

"The amendment made by the House is acceptable to the Senate. We were informed by the proponents of this measure that it worked for them and that we would not get anything different if we went to conference, so we're saving ourselves a trip."

The motion was then put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2602, and S.B. No. 2602, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO REAL ESTATE LICENSEES," was placed on the calendar for Final Reading on Tuesday, March 9, 2010.

SENATE CONCURRENT RESOLUTIONS

The following concurrent resolutions (S.C.R. Nos. 158 to 161) were read by the Clerk and were deferred:

S.C.R. No. 158 "SENATE CONCURRENT RESOLUTION REQUESTING A STUDY AND REVIEW OF THE HISTORICAL DEVELOPMENT AND EVOLUTION OF TAXATION IN HAWAII TO ASSIST THE STATE IN ACHIEVING ITS LONG-TERM ECONOMIC AND SOCIAL GOALS AND OBJECTIVES."

Offered by: Senator Chun Oakland.

S.C.R. No. 159 "SENATE CONCURRENT RESOLUTION REQUESTING THE RECOGNITION OF THE SECOND WEEK OF MARCH AS THE "CENSUS IN SCHOOLS WEEK.""

Offered by: Senator Chun Oakland.

S.C.R. No. 160 "SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO APPROVE AND THE DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES TO PLAN AND IMPLEMENT THE LEGISLATURE'S PROPOSAL TO REPLACE THE REFLECTING PONDS SURROUNDING THE STATE CAPITOL WITH A GARDEN OF NATIVE PLANTS."

Offered by: Senators Gabbard, Baker, Bunda, Espero, Fukunaga, Galuteria, Ige, Kidani, Nishihara, Slom, Takamine.

S.C.R. No. 161 "SENATE CONCURRENT RESOLUTION REQUESTING THE LEGISLATURE TO DEFINE PERSONHOOD AND PROTECT THE STATUS AND LEGAL RIGHTS OF A NATURAL PERSON."

Offered by: Senators Gabbard, Sakamoto.

SENATE RESOLUTIONS

The following resolutions (S.R. Nos. 70 and 71) were read by the Clerk and were deferred:

S.R. No. 70 "SENATE RESOLUTION REQUESTING THE RECOGNITION OF THE SECOND WEEK OF MARCH AS THE "CENSUS IN SCHOOLS WEEK"."

Offered by: Senator Chun Oakland.

S.R. No. 71 "SENATE RESOLUTION REQUESTING THE LEGISLATURE TO DEFINE PERSONHOOD AND PROTECT THE STATUS AND LEGAL RIGHTS OF A NATURAL PERSON."

Offered by: Senators Gabbard, Sakamoto.

STANDING COMMITTEE REPORTS

Senator Hee, for the Committee on Water, Land, Agriculture, and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 2671) recommending that the Senate advise and consent to the nomination of JOHN S. K. HOAG ESQ. to the Island Burial Council, Island of Oahu, in accordance with Gov. Msg. No. 232.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 2671 and Gov. Msg. No. 232 was deferred until Tuesday, March 9, 2010.

Senator Chun Oakland, for the Committee on Human Services, presented a report (Stand. Com. Rep. No. 2672) recommending that the Senate advise and consent to the nomination of JO ANN D. KOGA to the Statewide Council on Independent Living, in accordance with Gov. Msg. No. 265.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 2672 and Gov. Msg. No. 265 was deferred until Tuesday, March 9, 2010.

Senator Hee, for the Committee on Water, Land, Agriculture, and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 2673) recommending that the Senate advise and consent to the nominations to the Board of Agriculture of the following:

RICHARD HA, in accordance with Gov. Msg. No. 271; and

RICHARD HA, in accordance with Gov. Msg. No. 272.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 2673 and Gov. Msg. Nos. 271 and 272 was deferred until Tuesday, March 9, 2010.

Senator Chun Oakland, for the Committee on Human Services, presented a report (Stand. Com. Rep. No. 2674) recommending that the Senate advise and consent to the nomination of MICHAEL BARRY SUMJA to the Policy Advisory Board for Elder Affairs (PABEA), in accordance with Gov. Msg. No. 288.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 2674 and Gov. Msg. No. 288 was deferred until Tuesday, March 9, 2010.

Senator Chun Oakland, for the Committee on Human Services, presented a report (Stand. Com. Rep. No. 2675) recommending that S.C.R. No. 79, as amended in S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 2675 and S.C.R. No. 79, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION URGING THE PROVISION OF ORIENTATION AND ADDITIONAL TRAINING TO INCREASE THE ABILITY OF STATE AGENCY CASE WORKERS TO ADDRESS THE ISSUES FACED BY

GRANDPARENTS RAISING GRANDCHILDREN," was deferred until Tuesday, March 9, 2010.

Senator Chun Oakland, for the Committee on Human Services, presented a report (Stand. Com. Rep. No. 2676) recommending that S.R. No. 34, as amended in S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 2676 and S.R. No. 34, S.D. 1, entitled: "SENATE RESOLUTION URGING THE PROVISION OF ORIENTATION AND ADDITIONAL TRAINING TO INCREASE THE ABILITY OF STATE AGENCY CASE WORKERS TO ADDRESS THE ISSUES FACED BY GRANDPARENTS RAISING GRANDCHILDREN," was deferred until Tuesday, March 9, 2010.

Senator Gabbard, for the Committee on Energy and Environment, presented a report (Stand. Com. Rep. No. 2677) recommending that H.B. No. 2197, H.D. 1, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Commerce and Consumer Protection.

On motion by Senator Sakamoto, seconded by Senator Slom and carried, the report of the Committee was adopted and H.B. No. 2197, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONDOMINIUMS," passed Second Reading and was referred to the Committee on Commerce and Consumer Protection.

Senators Hee and Gabbard, for the Committee on Water, Land, Agriculture, and Hawaiian Affairs and the Committee on Energy and Environment, presented a joint report (Stand. Com. Rep. No. 2678) recommending that H.B. No. 979, 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 Sakamoto, seconded by Senator Slom and carried, the joint report of the Committees was adopted and H.B. No. 979, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE ENVIRONMENT," passed Second Reading and was referred to the Committee on Ways and Means.

ORDER OF THE DAY**ADVISE AND CONSENT**

Stand. Com. Rep. No. 2658 (Gov. Msg. Nos. 180 and 236):

Senator Baker moved that Stand. Com. Rep. No. 2658 be received and placed on file, seconded by Senator Ige and carried.

Senator Baker then moved that the Senate advise and consent to the nominations to the Contractors License Board of the following:

GERALD YAMADA, term to expire June 30, 2014 (Gov. Msg. No. 180); and

RANDALL B.C. LAU, term to expire June 30, 2014 (Gov. Msg. No. 236),

seconded by Senator Ige.

The motion was put by the Chair and carried on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Ihara, Kim).

Stand. Com. Rep. No. 2659 (Gov. Msg. No. 181):

Senator Baker moved that Stand. Com. Rep. No. 2659 be received and placed on file, seconded by Senator Ige and carried.

Senator Baker then moved that the Senate advise and consent to the nomination of MELANIE BILBAENO VALLEJOS DDS to the Board of Dental Examiners, term to expire June 30, 2014, seconded by Senator Ige.

The motion was put by the Chair and carried on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Ihara, Kim).

Stand. Com. Rep. No. 2660 (Gov. Msg. No. 182):

Senator Baker moved that Stand. Com. Rep. No. 2660 be received and placed on file, seconded by Senator Ige and carried.

Senator Baker then moved that the Senate advise and consent to the nomination of LINDSEY JOHN KIMURA to the Board of Electricians and Plumbers, term to expire June 30, 2014, seconded by Senator Ige.

The motion was put by the Chair and carried on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Ihara, Kim).

Stand. Com. Rep. No. 2661 (Gov. Msg. No. 185):

Senator Baker moved that Stand. Com. Rep. No. 2661 be received and placed on file, seconded by Senator Ige and carried.

Senator Baker then moved that the Senate advise and consent to the nomination of RHONDA C. SCOTT to the Board of Massage Therapy, term to expire June 30, 2014, seconded by Senator Ige.

The motion was put by the Chair and carried on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Ihara, Kim).

Stand. Com. Rep. No. 2662 (Gov. Msg. No. 187):

Senator Baker moved that Stand. Com. Rep. No. 2662 be received and placed on file, seconded by Senator Ige and carried.

Senator Baker then moved that the Senate advise and consent to the nomination of DANNY MORITO TAKANISHI JR. to the Hawaii Medical Board, term to expire June 30, 2014, seconded by Senator Ige.

The motion was put by the Chair and carried on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Ihara, Kim).

Stand. Com. Rep. No. 2663 (Gov. Msg. Nos. 188, 189, and 190):

Senator Baker moved that Stand. Com. Rep. No. 2663 be received and placed on file, seconded by Senator Ige and carried.

Senator Baker then moved that the Senate advise and consent to the nominations to the State Board of Nursing of the following:

MATTHEW J. BISHOP, term to expire June 30, 2013 (Gov. Msg. No. 188);

STEPHEN A. KULA PhD, term to expire June 30, 2013 (Gov. Msg. No. 189); and

CECILIA P.S. MUKAI PhD, term to expire June 30, 2013 (Gov. Msg. No. 190),

seconded by Senator Ige.

The motion was put by the Chair and carried on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Ihara, Kim).

Stand. Com. Rep. No. 2664 (Gov. Msg. No. 192):

Senator Baker moved that Stand. Com. Rep. No. 2664 be received and placed on file, seconded by Senator Ige and carried.

Senator Baker then moved that the Senate advise and consent to the nomination of CARLITO P. CALIBOSO to the Public Utilities Commission, term to expire June 30, 2016, seconded by Senator Ige.

Senator Baker rose in support of the nominee and said:

“Mr. Caliboso’s nomination really generated a broad spectrum of support. The Committee received pages and pages of testimony, every one of them effusively extolling Chair Caliboso’s performance as Chair, noting that he was fair, innovative, and hardworking. The Committee received favorable comments from interests that had been on both sides of rulings adopted under Chair Caliboso’s leadership.

“Initially appointed to the PUC in April 2003, Chair Caliboso has exhibited exemplary leadership in establishing the PUC as an effective policy-making body, rather than solely an adjudicatory one whose function was limited to simply processing incoming applications. Under his leadership, the PUC has processed an impressive and unprecedented array of major energy dockets, including the establishment of a competitive bidding framework for new wholesale energy generation resources, a framework for distributive generating resources, an establishment of a public benefits fund, and third party energy efficiency administrator, and the implementation of renewable portfolio standards. I must say that some of these items were necessarily initiated by the Legislature, but it’s nice to have an agency that will take the direction and the policy initiatives from the Legislature and move forward. All of these decisions provide major regulatory transformation that facilitate reducing Hawaii’s dependence on imported fossil fuel.

“The PUC, under Chair Caliboso’s leadership, has adopted an inclusive process that brought together a broad spectrum of stakeholders, conducting hearings in a transparent panel format that allows direct participation without having to expend extensive costs for attorneys and other resources. He also implemented an open website access to PUC documents and filings, saving folks that are interested, as well as interveners, time and money. While still struggling with the backlog of dockets, the PUC has managed to process several times as many major policy dockets under his leadership tenure compared with previous commissions, all in the face of staff and resource challenges.

“In addition, Chair Caliboso has developed a national reputation for his interest in and knowledge of advanced telecommunications. He was recently nominated by the President of the National Association of Regulatory Utility Commissioners to become a member of the Joint Conference on Advanced Services, which is a board comprised of these commissioners and the FCC. The Conference serves as a forum for a dialogue for federal and state commissioners and local and regional entities regarding the deployment of advanced telecommunications.

“Today, there are more than 35 energy policy-related dockets that require the PUC’s full attention. Madam President and colleagues, I cannot think of a better qualified individual, equipped with laser-sharp focus and commitment, than Mr. Caliboso to lead and guide the State’s energy and regulatory transformation for the public’s best interest. I urge

all of you to join me in supporting Carlito Caliboso's confirmation to a second term as Chair of the PUC. Thank you."

The motion was put by the Chair and carried on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Ihara, Kim).

Stand. Com. Rep. No. 2665 (Gov. Msg. No. 193):

Senator Baker moved that Stand. Com. Rep. No. 2665 be received and placed on file, seconded by Senator Ige and carried.

Senator Baker then moved that the Senate advise and consent to the nomination of FRANCES ALLISON TORRE GENDRANO to the Real Estate Commission, term to expire June 30, 2014, seconded by Senator Ige.

The motion was put by the Chair and carried on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Ihara, Kim).

Stand. Com. Rep. No. 2666 (Gov. Msg. No. 195):

Senator Baker moved that Stand. Com. Rep. No. 2666 be received and placed on file, seconded by Senator Ige and carried.

Senator Baker then moved that the Senate advise and consent to the nomination of ELWOOD ICHIRO KITA to the Board of Veterinary Examiners, term to expire June 30, 2014, seconded by Senator Ige.

The motion was put by the Chair and carried on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Ihara, Kim).

Stand. Com. Rep. No. 2667 (Gov. Msg. Nos. 234 and 235):

Senator Hee moved that Stand. Com. Rep. No. 2667 be received and placed on file, seconded by Senator Tokuda and carried.

Senator Hee then moved that the Senate advise and consent to the nominations to the Commission on Water Resource Management of the following:

WILLIAM D. BALFOUR JR., term to expire June 30, 2010 (Gov. Msg. No. 234); and

WILLIAM D. BALFOUR JR., term to expire June 30, 2014 (Gov. Msg. No. 235),

seconded by Senator Tokuda.

The motion was put by the Chair and carried on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Ihara, Kim).

Stand. Com. Rep. No. 2668 (Gov. Msg. Nos. 273 and 274):

Senator Hee moved that Stand. Com. Rep. No. 2668 be received and placed on file, seconded by Senator Tokuda and carried.

Senator Hee then moved that the Senate advise and consent to the nominations to the Island Burial Council, Islands of Kua'i and Ni'ihau of the following:

JAMES WILFRED FUJITA, term to expire June 30, 2012 (Gov. Msg. No. 273); and

DEBRA U'ILANI RUIZ, term to expire June 30, 2013 (Gov. Msg. No. 274),

seconded by Senator Tokuda.

The motion was put by the Chair and carried on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Ihara, Kim).

Stand. Com. Rep. No. 2669 (Gov. Msg. No. 311):

Senator Hee moved that Stand. Com. Rep. No. 2669 be received and placed on file, seconded by Senator Tokuda and carried.

Senator Hee then moved that the Senate advise and consent to the nomination of NOREEN R. OHAI-DANIELS to the Koke'e State Park Advisory Council, term to expire June 30, 2011, seconded by Senator Tokuda.

The motion was put by the Chair and carried on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Ihara, Kim).

Stand. Com. Rep. No. 2670 (Gov. Msg. No. 312):

Senator Hee moved that Stand. Com. Rep. No. 2670 be received and placed on file, seconded by Senator Tokuda and carried.

Senator Hee then moved that the Senate advise and consent to the nomination of ROBERT J. SHALLENBERGER to the Legacy Land Conservation Commission, term to expire June 30, 2014, seconded by Senator Tokuda.

The motion was put by the Chair and carried on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Ihara, Kim).

At this time, the Chair made the following announcement:

"Referrals and re-referrals are made in accordance with the referrals and re-referrals listed on the Supplemental Order of the Day that may be distributed to your offices later this afternoon."

RE-REFERRAL OF A HOUSE BILL

The Chair re-referred the following House bill that was received:

H.B. No.:	Re-referred to:
H.B. No. 744, H.D. 2	Committee on Human Services, then to the Committee on Judiciary and Government Operations

ADJOURNMENT

At 11:44 a.m., on motion by Senator Sakamoto, seconded by Senator Slom and carried, the Senate adjourned until 11:30 a.m., Tuesday, March 9, 2010.