

SIXTEENTH DAY

Friday, February 11, 2011

The Senate of the Twenty-Sixth Legislature of the State of Hawai'i, Regular Session of 2011, convened at 11:32 a.m. with the Vice President in the Chair.

The Roll was called showing all Senators present with the exception of Senators Ihara and Tsutsui who were excused.

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

At this time, Senator Slom introduced Mr. Bryon York, a White House correspondent for *National Review* and *The Washington Examiner* and a weekly columnist for *The Hill*, who was accompanied by his wife Marty on their visit from Washington, D.C.

HOUSE COMMUNICATION

The following communication from the House (Hse. Com. No. 7) was read by the Clerk and was disposed of as follows:

Hse. Com. No. 7, transmitting H.B. No. 894, H.D. 1, which passed Third Reading in the House of Representatives on February 10, 2011, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, H.B. No. 894, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MORTGAGE FORECLOSURES," passed First Reading by title and was deferred.

STANDING COMMITTEE REPORTS

Senators Baker and English, for the Committee on Commerce and Consumer Protection and the Committee on Transportation and International Affairs, presented a joint report (Stand. Com. Rep. No. 93) recommending that S.B. No. 1321, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary and Labor.

On motion by Senator Espero, seconded by Senator Slom and carried, the joint report of the Committees was adopted and S.B. No. 1321, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO COMMERCIAL DRIVER LICENSING," passed Second Reading and was referred to the Committee on Judiciary and Labor.

Senator Tokuda, for the Committee on Education, presented a report (Stand. Com. Rep. No. 94) recommending that S.B. No. 807, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary and Labor.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 807, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CHARTER SCHOOLS," passed Second Reading and was referred to the Committee on Judiciary and Labor.

Senator Tokuda, for the Committee on Education, presented a report (Stand. Com. Rep. No. 95) recommending that S.B. No. 1283 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 1283, entitled: "A BILL FOR AN ACT RELATING TO THE CERTIFICATION OF PRINCIPALS AND VICE-PRINCIPALS," passed Second Reading and was referred to the Committee on Ways and Means.

Senators Baker and Hee, for the Committee on Commerce and Consumer Protection and the Committee on Judiciary and Labor, presented a joint report (Stand. Com. Rep. No. 96)

recommending that S.B. No. 1233, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the joint report of the Committees was adopted and S.B. No. 1233, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE SOLICITATION OF FUNDS FROM THE PUBLIC," passed Second Reading and was referred to the Committee on Ways and Means.

Senators Dela Cruz and Espero, for the Committee on Water, Land, and Housing and the Committee on Public Safety, Government Operations, and Military Affairs, presented a joint report (Stand. Com. Rep. No. 97) recommending that S.B. No. 1181 pass Second Reading and be referred to the Committee on Economic Development and Technology.

On motion by Senator Espero, seconded by Senator Slom and carried, the joint report of the Committees was adopted and S.B. No. 1181, entitled: "A BILL FOR AN ACT RELATING TO COUNTY ZONING," passed Second Reading and was referred to the Committee on Economic Development and Technology.

Senators Dela Cruz and Espero, for the Committee on Water, Land, and Housing and the Committee on Public Safety, Government Operations, and Military Affairs, presented a joint report (Stand. Com. Rep. No. 98) recommending that S.B. No. 1558 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the joint report of the Committees was adopted and S.B. No. 1558, entitled: "A BILL FOR AN ACT RELATING TO URBAN RENEWAL," passed Second Reading and was referred to the Committee on Ways and Means.

Senators Dela Cruz and Espero, for the Committee on Water, Land, and Housing and the Committee on Public Safety, Government Operations, and Military Affairs, presented a joint report (Stand. Com. Rep. No. 99) recommending that S.B. No. 1326, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the joint report of the Committees was adopted and S.B. No. 1326, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO COSTS OF RELOCATION AND UNDERGROUNDING OF UTILITY FACILITIES," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 100) recommending that S.B. No. 1324, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 1324, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO RENTAL MOTOR VEHICLE SURCHARGE TAX," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Fukunaga, for the Committee on Economic Development and Technology, presented a report (Stand. Com. Rep. No. 101) recommending that S.B. No. 752, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 752, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ECONOMIC DEVELOPMENT," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Fukunaga, for the Committee on Economic Development and Technology, presented a report (Stand. Com. Rep. No. 102) recommending that S.B. No. 778 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 778, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Nishihara, for the Committee on Agriculture, presented a report (Stand. Com. Rep. No. 103) recommending that S.B. No. 14, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 14, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURAL DEVELOPMENT," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Nishihara, for the Committee on Agriculture, presented a report (Stand. Com. Rep. No. 104) recommending that S.B. No. 1142, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 1142, 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 Nishihara, for the Committee on Agriculture, presented a report (Stand. Com. Rep. No. 105) recommending that S.B. No. 1145, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 1145, 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 Nishihara, for the Committee on Agriculture, presented a report (Stand. Com. Rep. No. 106) recommending that S.B. No. 1155, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 1155, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE LONG-TERM AGRICULTURAL LEASE TASK FORCE," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Nishihara, for the Committee on Agriculture, presented a report (Stand. Com. Rep. No. 107) recommending that S.B. No. 1153 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 1153, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURAL LOANS," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Nishihara, for the Committee on Agriculture, presented a report (Stand. Com. Rep. No. 108) recommending

that S.B. No. 1209 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 1209, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE OPERATION AND MAINTENANCE OF THE EAST KAUAI IRRIGATION SYSTEM," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Fukunaga, for the Committee on Economic Development and Technology, presented a report (Stand. Com. Rep. No. 109) recommending that S.B. No. 757, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 757, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SMALL BUSINESS," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Fukunaga, for the Committee on Economic Development and Technology, presented a report (Stand. Com. Rep. No. 110) recommending that S.B. No. 755, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 755, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ECONOMIC DEVELOPMENT," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Ige, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 111) recommending that S.B. No. 20, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 20, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE BUDGET," passed Second Reading and was placed on the calendar for Third Reading on Monday, February 14, 2011.

Senator Ige, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 112) recommending that S.B. No. 163, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 163, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO STATE BONDS," passed Second Reading and was placed on the calendar for Third Reading on Monday, February 14, 2011.

Senator Ige, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 113) recommending that S.B. No. 1260, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 1260, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC FINANCE," passed Second Reading and was placed on the calendar for Third Reading on Monday, February 14, 2011.

Senator Ige, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 114) recommending that S.B. No. 1318, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 1318, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO USE TAX," passed Second Reading and was placed on the calendar for Third Reading on Monday, February 14, 2011.

Senator Ige, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 115) recommending that S.B. No. 19 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 19, entitled: "A BILL FOR AN ACT RELATING TO THE STATE TREASURY," passed Second Reading and was placed on the calendar for Third Reading on Monday, February 14, 2011.

Senator Ige, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 116) recommending that S.B. No. 1271 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 1271, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC NOTICES FOR THE EXPENDITURE CEILING AND THE AWARDED OF GRANTS," passed Second Reading and was placed on the calendar for Third Reading on Monday, February 14, 2011.

Senator Nishihara, for the Committee on Agriculture, presented a report (Stand. Com. Rep. No. 117) recommending that the Senate advise and consent to the nomination of RUSSELL S. KOKUBUN as the Chairperson of the Board of Agriculture, in accordance with Gov. Msg. No. 504.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 117 and Gov. Msg. No. 504 was deferred until Monday, February 14, 2011.

ORDER OF THE DAY

THIRD READING

S.B. No. 656, S.D. 1:

On motion by Senator Baker, seconded by Senator Taniguchi and carried, S.B. No. 656, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC UTILITIES COMMISSION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, none. Excused, 4 (Fukunaga, Hee, Ihara, Tsutsui).

S.B. No. 1386, S.D. 1:

On motion by Senator Tokuda, seconded by Senator Kidani and carried, S.B. No. 1386, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE BOARD OF REGENTS OF THE UNIVERSITY OF HAWAII," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (Fukunaga, Ihara, Tsutsui).

S.B. No. 1281, S.D. 1:

On motion by Senator Tokuda, seconded by Senator Kidani and carried, S.B. No. 1281, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (Fukunaga, Ihara, Tsutsui).

At 11:37 a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:37 a.m.

S.B. No. 1286, S.D. 1:

On motion by Senator Ige, seconded by Senator Kidani and carried, S.B. No. 1286, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE BUDGET," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (Fukunaga, Ihara, Tsutsui).

S.B. No. 1288, S.D. 1:

Senator Ige moved that S.B. No. 1288, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Kidani.

Senator Slom rose in opposition to the measure and said:

"What we're doing again is raiding the emergency rainy day fund. I know that we have a problem in terms of our deficit and trying to raise money. Instead, what we really should be doing is, as I've said constantly, is to cut our expenditures and look to that; and if we establish funds and we have a purpose for that fund, we should not be using it for other purposes. I have another problem with this bill, however, Madam President. There's a possible error under section 3 of the bill. In terms of the total amount of money that's listed, it's listed for \$1 million, and if you look in page 7 of the bill itself, the actual detail comes to \$965,845. So, there seems to be a missing amount of around \$36,000. If someone could clarify that for me, I would appreciate it. Thank you."

At 11:39 a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:43 a.m.

Senator Ige rose in response as follows:

"Yes, Madam President, the minority leader is accurate in the sense that that section appropriates \$1 million and then in the detail of that section it designates 'as requested by the administration.' Specific allocations of the million dollars to various nonprofit agencies to perform services; and the minority leader is accurate in that it does not total exactly to the \$1 million, but there's nothing that legally requires us to designate the full allocation. I certainly will have the conversation with the administration to make sure exactly what it is that they had intended; and if there is a further appropriation that we need to make, we'll be discussing that with the House to make sure that it's exactly what is needed. Thank you."

Senator Slom rose in response and said:

"Yes, I just want to thank the Ways and Means Chair for the clarification. Thank you."

The motion was put by the Chair and carried, S.B. No. 1288, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE EMERGENCY AND BUDGET RESERVE FUND," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 1 (Slom). Excused, 2 (Ihara, Tsutsui).

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

The Senate reconvened at 11:46 a.m.

At this time, the Chair made the following announcement:

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

Senator Gabbard rose on a point of personal privilege and said:

“I would like to congratulate one of our members on his 41st birthday, and in a Samoan tradition—this is from the Samoan caucus that we have 10 NFL Samoan players to administer the 41 whacks immediately after session today. Congratulations, Dr. Green. Aloha.”

RE-REFERRAL OF A SENATE BILL

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

S.B. No.:	Re-referred to:
S.B. No. 261	Committee on Hawaiian Affairs, then to the Committee on Ways and Means

ADJOURNMENT

At 11:49 a.m., on motion by Senator Espero, seconded by Senator Slom and carried, the Senate adjourned until 11:30 a.m., Monday, February 14, 2011.