

## FORTY-EIGHTH DAY

## Thursday, April 14, 2011

The Senate of the Twenty-Sixth Legislature of the State of Hawai'i, Regular Session of 2011, convened at 11:31 a.m. with the President in the Chair.

The Roll was called showing all Senators present with the exception of Senator Taniguchi who was excused.

The President announced that he had read and approved the Journal of the Forty-Seventh Day.

At this time, Senator Kahale introduced Kumu Pelehonuamea Harman and a group of sixth-grade students from Ke Kula 'O Nāwahōakalani'ōpu'u Iki Laboratory Public Charter School in Kea'au district in Puna who were seated in the gallery.

Senator Hee read a few remarks he was sent and engaged in discussion with the nā haumāna no Ke Kula 'O Nāwahōakalani'ōpu'u Iki Laboratory Public Charter School.

Senator Chun Oakland introduced members of Protecting Hawaii's Ohana, Children, Underserved, Elderly and Disabled (PHOCUSED), who were seated in the gallery.

Senator Shimabukuro introduced Alex Santiago, Executive Director of PHOCUSED, who was seated in the gallery.

Senator Tokuda introduced Superintendent Kathryn Matayoshi, Deputy Superintendent Ronn Nozoe, Assistant Superintendents Joyce Bellino and David Wu, and other staff members from the Department of Education who were seated in the gallery.

## MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 193, 782 to 787 and 1108) were read by the Clerk and were placed on file:

Gov. Msg. No. 193, letter dated April 5, 2011, as provided in Section 9, Article VII of the Constitution of the State of Hawaii, requesting the immediate consideration and passage of S.B. No. 1270, which appropriates funds from the Hawaii Hurricane Relief Fund to the general fund.

Gov. Msg. No. 782, letter dated April 7, 2011, correcting remarks on Gov. Msg. No. 720.

Gov. Msg. No. 783, letter dated April 8, 2011, correcting the term for the nomination to Gov. Msg. No. 748, gubernatorial nominee to the Hawai'i Paroling Authority, JOYCE K. MATSUMORI-HOSHIJO, term to expire amended to June 30, 2014; and correcting remarks on Gov. Msg. No. 713 and Gov. Msg. No. 540.

Gov. Msg. No. 784, letter dated April 11, 2011, correcting remarks on Gov. Msg. No. 698.

Gov. Msg. No. 785, informing the Senate that on April 11, 2011, the Governor withdrew MYRONE MURAKAMI, Gubernatorial Nominee to the Legacy Land Conservation Commission, from consideration by the Senate (Gov. Msg. No. 647).

Gov. Msg. No. 786, informing the Senate that on April 11, 2011, the Governor withdrew GERALD SIMPSON, Gubernatorial Nominee to the Mental Health and Substance Abuse, Maui Service Area Board, from consideration by the Senate (Gov. Msg. No. 714).

Gov. Msg. No. 787, informing the Senate that on April 7, 2011, the Governor withdrew LEIVALLYN KAUPU,

Gubernatorial Nominee to the Hawaiian Homes Commission, from consideration by the Senate (Gov. Msg. No. 776).

Gov. Msg. No. 1108, informing the Senate that on April 11, 2011, the Governor signed into law House Bill No. 863 as Act 8, entitled: "RELATING TO HEALTH."

## DEPARTMENTAL COMMUNICATION

The following communication (Dept. Com. No. 84) was read by the Clerk and was placed on file:

Dept. Com. No. 84, from the State Auditor, dated April 8, 2011, transmitting the 2010 Annual Report for the Office of the Auditor, pursuant to Section 23-9, HRS.

## HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 407 to 572) were read by the Clerk and were disposed of as follows:

Hse. Com. No. 407, informing the Senate that on April 12, 2011, the House disagreed to the amendments proposed by the Senate to the following House bills:

H.B. No. 235, H.D. 2 (S.D. 2); and  
H.B. No. 1053, H.D. 1 (S.D. 1),

were placed on file.

Hse. Com. No. 408, returning S.B. No. 2, S.D. 2, as amended in H.D. 1, which passed Third Reading in the House of Representatives on April 12, 2011, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, the Senate disagreed to the amendments proposed by the House to S.B. No. 2, S.D. 2, and requested a conference on the subject matter thereof.

Hse. Com. No. 409, returning S.B. No. 11, S.D. 2, as amended in H.D. 2, which passed Third Reading in the House of Representatives on April 12, 2011, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, the Senate disagreed to the amendments proposed by the House to S.B. No. 11, S.D. 2, and requested a conference on the subject matter thereof.

Hse. Com. No. 410, returning S.B. No. 14, S.D. 2, as amended in H.D. 1, which passed Third Reading in the House of Representatives on April 12, 2011, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, the Senate disagreed to the amendments proposed by the House to S.B. No. 14, S.D. 2, and requested a conference on the subject matter thereof.

Hse. Com. No. 411, returning S.B. No. 23, S.D. 1, as amended in H.D. 2, which passed Third Reading in the House of Representatives on April 12, 2011, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, the Senate disagreed to the amendments proposed by the House to S.B. No. 23, S.D. 1, and requested a conference on the subject matter thereof.

Hse. Com. No. 412, returning S.B. No. 41, S.D. 1, as amended in H.D. 1, which passed Third Reading in the House of Representatives on April 12, 2011, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, the Senate disagreed to the amendments proposed by the House to S.B. No. 41, S.D. 1, and requested a conference on the subject matter thereof.





















Hse. Com. No. 566, returning S.B. No. 1530, S.D. 1, as amended in H.D. 2, which passed Third Reading in the House of Representatives on April 12, 2011, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, the Senate disagreed to the amendments proposed by the House to S.B. No. 1530, S.D. 1, and requested a conference on the subject matter thereof.

Hse. Com. No. 567, returning S.B. No. 1549, S.D. 2, as amended in H.D. 1, which passed Third Reading in the House of Representatives on April 12, 2011, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, the Senate disagreed to the amendments proposed by the House to S.B. No. 1549, S.D. 2, and requested a conference on the subject matter thereof.

Hse. Com. No. 568, returning S.B. No. 1555, S.D. 2, as amended in H.D. 2, which passed Third Reading in the House of Representatives on April 12, 2011, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, the Senate disagreed to the amendments proposed by the House to S.B. No. 1555, S.D. 2, and requested a conference on the subject matter thereof.

Hse. Com. No. 569, returning S.B. No. 675, S.D. 1, which passed Third Reading in the House of Representatives on April 12, 2011, was placed on file.

Hse. Com. No. 570, returning S.B. No. 1171, which passed Third Reading in the House of Representatives on April 12, 2011, was placed on file.

Hse. Com. No. 571, returning S.B. No. 1260, S.D. 1, which passed Third Reading in the House of Representatives on April 12, 2011, was placed on file.

Hse. Com. No. 572, returning S.B. No. 1318, S.D. 1, which passed Third Reading in the House of Representatives on April 12, 2011, was placed on file.

#### STANDING COMMITTEE REPORTS

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 1266) recommending that the Senate advise and consent to the nominations to the Board of Dental Examiners of the following:

CANDACE WADA, in accordance with Gov. Msg. No. 580; and

MARILYN R. NONAKA, in accordance with Gov. Msg. No. 581.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1266 and Gov. Msg. Nos. 580 and 581 was deferred until Friday, April 15, 2011.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 1267) recommending that the Senate advise and consent to the nominations to the Board of Examiners in Optometry of the following:

GAYLE CHANG, in accordance with Gov. Msg. No. 600; and

KEVIN K. LUI, in accordance with Gov. Msg. No. 601.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1267 and Gov. Msg. Nos. 600 and 601 was deferred until Friday, April 15, 2011.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep.

No. 1268) recommending that the Senate advise and consent to the nominations to the Elevator Mechanics Licensing Board of the following:

MARC K.M. YAMANE, in accordance with Gov. Msg. No. 582; and

LAWRENCE T. MORINAGA, in accordance with Gov. Msg. No. 583.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1268 and Gov. Msg. No. 582 and 583 was deferred until Friday, April 15, 2011.

Senator English, for the Committee on Transportation and International Affairs, presented a report (Stand. Com. Rep. No. 1269) recommending that the Senate advise and consent to the nomination of CHAD K. TANIGUCHI to the State Highway Safety Council, in accordance with Gov. Msg. No. 646.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1269 and Gov. Msg. No. 646 was deferred until Friday, April 15, 2011.

Senator Espero, for the Committee on Public Safety, Government Operations, and Military Affairs, presented a report (Stand. Com. Rep. No. 1270) recommending that S.C.R. No. 64, as amended in S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1270 and S.C.R. No. 64, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE ESTABLISHMENT OF AN EARNED TIME PROGRAM," was deferred until Friday, April 15, 2011.

Senator Espero, for the Committee on Public Safety, Government Operations, and Military Affairs, presented a report (Stand. Com. Rep. No. 1271) recommending that S.R. No. 37, as amended in S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1271 and S.R. No. 37, S.D. 1, entitled: "SENATE RESOLUTION REQUESTING THE ESTABLISHMENT OF AN EARNED TIME PROGRAM," was deferred until Friday, April 15, 2011.

Senator Espero, for the Committee on Public Safety, Government Operations, and Military Affairs, presented a report (Stand. Com. Rep. No. 1272) recommending that S.C.R. No. 175, as amended in S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1272 and S.C.R. No. 175, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE GOVERNOR TO PROCLAIM APRIL 30, 2011, AS "VIETNAM VETERANS APPRECIATION DAY"," was deferred until Friday, April 15, 2011.

Senator Espero, for the Committee on Public Safety, Government Operations, and Military Affairs, presented a report (Stand. Com. Rep. No. 1273) recommending that S.R. No. 111, as amended in S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1273 and S.R. No. 111, S.D. 1, entitled: "SENATE RESOLUTION REQUESTING THE GOVERNOR TO PROCLAIM APRIL 30, 2011, AS "VIETNAM VETERANS APPRECIATION DAY"," was deferred until Friday, April 15, 2011.

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. 1274) recommending that S.C.R. No. 171, as amended in S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1274 and S.C.R. No. 171, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION URGING THE GOVERNOR TO WITHDRAW CERTAIN EXECUTIVE ORDERS SETTING ASIDE PUBLIC LANDS WHERE THE RECEIVING AGENCY HAS FAILED TO USE OR HAS UNDERUTILIZED THE LANDS FOR THE PURPOSE SPECIFIED," was deferred until Friday, April 15, 2011.

Senator Dela Cruz, for the Committee on Water, Land, and Housing, presented a report (Stand. Com. Rep. No. 1275) recommending that S.C.R. No. 117, as amended in S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1275 and S.C.R. No. 117, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE CHAIRPERSON OF THE BOARD OF LAND AND NATURAL RESOURCES TO REPORT TO THE LEGISLATURE, NO LATER THAN DECEMBER 15, 2011, ON THE PROGRESS OF THE KOKE'E STATE PARK ADVISORY COUNCIL," was deferred until Friday, April 15, 2011.

Senator Gabbard, for the Committee on Energy and Environment, presented a report (Stand. Com. Rep. No. 1276) recommending that the Senate advise and consent to the nominations to the Environmental Council of the following:

DAVID ATKIN, in accordance with Gov. Msg. No. 547;  
SCOTT GLENN, in accordance with Gov. Msg. No. 548;  
MARY STEINER, in accordance with Gov. Msg. No. 550;  
MARJORIE F.Y. ZIEGLER, in accordance with Gov. Msg. No. 573;  
MALIA AKUTAGAWA, in accordance with Gov. Msg. No. 609;  
SHANNON D. MEARS, in accordance with Gov. Msg. No. 610; and  
IRIS TERASHIMA, in accordance with Gov. Msg. No. 638.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1276 and Gov. Msg. Nos. 547, 548, 550, 573, 609, 610 and 638 was deferred until Friday, April 15, 2011.

Senator Gabbard, for the Committee on Energy and Environment, presented a report (Stand. Com. Rep. No. 1277) recommending that the Senate advise and consent to the nomination of CHARLES A. PRENTISS to the Environmental Council, in accordance with Gov. Msg. No. 549.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1277 and Gov. Msg. No. 549 was deferred until Friday, April 15, 2011.

#### ORDER OF THE DAY

#### AGREE/DISAGREE

#### MATTERS DEFERRED FROM TUESDAY, APRIL 12, 2011

S.B. No. 1301, S.D. 1 (H.D. 1):

Senator Baker moved that the Senate agree to the amendments made by the House to S.B. No. 1301, S.D. 1, seconded by Senator Espero.

Senator Baker noted:

"This measure clarifies the Senate position. We've had it legal checked and it has a clean date and the agency that oversees this has requested that we agree to these amendments."

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 1301, S.D. 1, and S.B. No. 1301, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FAIR HOUSING EXEMPTIONS," was placed on the calendar for Final Reading on Friday, April 15, 2011.

S.B. No. 40, S.D. 2 (H.D. 2):

On motion by Senator Espero, seconded by Senator Slom and carried, the Senate disagreed to the amendments proposed by the House to S.B. No. 40, S.D. 2, and requested a conference on the subject matter thereof.

S.B. No. 101, S.D. 1 (H.D. 2):

On motion by Senator Espero, seconded by Senator Slom and carried, the Senate disagreed to the amendments proposed by the House to S.B. No. 101, S.D. 1, and requested a conference on the subject matter thereof.

S.B. No. 631, S.D. 1 (H.D. 2):

On motion by Senator Espero, seconded by Senator Slom and carried, the Senate disagreed to the amendments proposed by the House to S.B. No. 631, S.D. 1, and requested a conference on the subject matter thereof.

S.B. No. 219, S.D. 1 (H.D. 1):

On motion by Senator Espero, seconded by Senator Slom and carried, the Senate disagreed to the amendments proposed by the House to S.B. No. 219, S.D. 1, and requested a conference on the subject matter thereof.

S.B. No. 1416, S.D. 1 (H.D. 1):

On motion by Senator Espero, seconded by Senator Slom and carried, the Senate disagreed to the amendments proposed by the House to S.B. No. 1416, S.D. 1, and requested a conference on the subject matter thereof.

S.B. No. 1417, S.D. 1 (H.D. 1):

On motion by Senator Espero, seconded by Senator Slom and carried, the Senate disagreed to the amendments proposed by the House to S.B. No. 1417, S.D. 1, and requested a conference on the subject matter thereof.

S.B. No. 1483, S.D. 1 (H.D. 1):

On motion by Senator Espero, seconded by Senator Slom and carried, the Senate disagreed to the amendments proposed by the House to S.B. No. 1483, S.D. 1, and requested a conference on the subject matter thereof.

S.B. No. 1484, S.D. 1 (H.D. 2):

Senator Baker moved that the Senate agree to the amendments made by the House to S.B. No. 1484, S.D. 1, seconded by Senator Espero.

Senator Baker noted:

"This measure adds one group of folks as exempt from our insurance laws—those fraternal organizations—and all the House did was to include seafaring as well as land organizations that belong to this particular group. We've had it legal checked and its perfectly fine."

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 1484, S.D. 1, and S.B. No. 1484, S.D. 1, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," was placed on the calendar for Final Reading on Friday, April 15, 2011.

S.B. No. 1559, S.D. 2 (H.D. 2):

On motion by Senator Espero, seconded by Senator Slom and carried, the Senate disagreed to the amendments proposed by the House to S.B. No. 1559, S.D. 2, and requested a conference on the subject matter thereof.

#### ADVISE AND CONSENT

Stand. Com. Rep. No. 1264 (Gov. Msg. No. 652, 655, 656 and 658):

Senator Tokuda moved that Stand. Com. Rep. No. 1264 be received and placed on file, seconded by Senator Kidani and carried.

Senator Tokuda then moved that the Senate advise and consent to the nominations to the State of Hawai'i Board of Education of the following:

KEITH AMEMIYA, term to expire June 30, 2012 (Gov. Msg. No. 652);

CHARLENE CUARESMA, term to expire June 30, 2013 (Gov. Msg. No. 655);

CHERYL KA'UHANE LUPENUI, term to expire June 30, 2012 (Gov. Msg. No. 656); and

NANCY JO-YAMAKAWA BUDD, term to expire June 30, 2012 (Gov. Msg. No. 658),

seconded by Senator Kidani.

Senator Tokuda rose in strong support of the nominees as follows:

"We have before us the inaugural nine, Hawai'i's very first fully appointed Board of Education—Chairman Don Horner, Members Keith Amemiya, Nancy Budd, Charlene Cuaresma, Brian De Lima, Kim Gennaula Hagi, Wesley Lo, Cheryl Ka'uane Lupenui, and Jim Williams—true game changers that mark a turning point in the way decisions are made that directly affect our students, our schools, and ultimately all of our families and communities. While each of the nominees are impressive in their own right, this clearly is a case where the proverbial sum is greater than its parts. Sitting through the seven hours of confirmation hearings was like watching the pieces of a puzzle come together, and in the end, I believe everyone who witnessed the events walked away excited and hopeful, with a clear picture of what this board envisioned for the future. Among the nine, we have chief executive officers, university administrators, community leaders, educators, attorneys, and passionate advocates for more causes than I can mention.

"Your committee received 266 pieces of positive testimony from businesses, groups and organizations, and individuals that highlighted and praised the nominees for their commitment to public service and the unique skills and life experiences they would bring to the table. But beyond all of that, we were able to have honest and real discussions with the nominees about their children and their families. We got a true sense of what motivates them personally and professionally and talked about their vision and tangible plans for building upon our successes and making our school communities even better. And while all in the room could sense the urgency of the mission at hand, one of our nominees reminded us of an African proverb: 'If you want to go fast, go alone. If you want to go far, go together.'

"While much hope and expectation, unrealistic or not, has been placed on the shoulders of these nominees, your committee acknowledged and committed our support to working with them to bring about positive change for our students and our schools. In closing, one of our nominees shared with us the final words her mother spoke to her when she

was just 11 years old: 'Get a good education. Education is your ticket out.' It is my belief that if we as a community support and embrace the vision and the direction these inaugural nine have for our state educational system, our students will be holding onto tickets to wherever they want to go. Thank you very much, and I hope for your support of all of these nominations."

Senator Slom rose in strong support of the nominees as follows:

"As one who sat through all of the hours of hearings, I echo the sentiments of the Education Chairman. I think they were very fruitful. We asked them a lot of questions. They provided us with a lot of answers. This actually is a very momentous occasion. It's one of the few occasions when the state government actually reacted quickly, positively, and in a changed direction. We started out with the people last year, who overwhelmingly in November told us they were not satisfied with the status quo and business as usual. They wanted changes. They wanted a new direction. They wanted people that could think outside the box. And then, I wish to thank the Governor for his nominees. I think that they were all excellent. They represent a very diverse cross-section of our community. All of them bring passion and energy and a commitment to public service and to education. And that's what we say is the most important thing in Hawai'i and the most important thing that we do in the Legislature: to make education, public education, priority number one. Well, now we're going to have an opportunity to make that occur.

"This in many ways is a very unique position in history. The nominees know that they have a honeymoon period here, but they also know that everyone—and I mean everyone—is going to be watching them, is going to expect a great deal from them. But in listening to them, each one of them expects a great deal from themselves. They all have a shared vision of what can be: and that is an improved, first-class public education system that gives the parents, the teachers, and the taxpayers their money's worth. I think that in many ways we have a perfect storm. This opportunity could not have happened a couple of years ago, may not happen in the future, but it's happening right now, and I know that many of these people have already demonstrated their success in other fields in the community, but this is probably in many respects going to be their biggest challenge.

"They come in with their eyes wide open, but they're all confident, individually and as a group, that in fact they can make the changes that we expect. I've cautioned all of them to make sure that any level of frustration does not dampen or diminish the energy and the passion that they have because we've all been there. But we're all rooting for you, and we'll do everything that we can to help you. This is something that we can all share in. It's something that can be a total success. So, again, thank you all for your willingness to serve and thank you for the things that you are about to do. And, as far as the changes, Mr. President, I just wish we could apply some of this philosophy to the change in budgeting, taxation, and spending in this state. Thank you very much."

Senator English rose in support of the nominees as follows:

"From the time of the founding of the Board of Education by Kamehameha V in 1850 until early 1960s, the Board of Education was an appointed board. And shortly after statehood, the voters of Hawai'i decided that it should be an elected board. And the reason for that was too much concentration of power in the executive branch. Now, today, the voters have decided that it's time to streamline once again the Board of Education, to bring it back to an executive department and an appointed body. But, you know, Kamehameha V's vision still lives. When we were independent, our little country had the highest literacy rate in the world. Hawai'i had a literacy rate of 98 percent under the kingdom. Our government spent a vast majority of its budget

on education. We established schools in the most remote villages of Hawai'i, paid teachers well to go to these remote, remote areas and teach people to read and write. You know, when Hawai'i was independent, our little country spoke at least three languages. Everyone spoke Ka 'ōlelo makua hine i Kēia 'āina nei; spoke Hawaiian. Most spoke English. And others still spoke another language. So, there's no reason that we cannot obtain high literacy rates again. I have great faith in this board, that they will remember the charge of Kamehameha V to educate Hawai'i; to make us one of the best.

"Members of the Senate, today we are standing at a very pivotal point in Hawaiian history. There's only two other times that we have dealt with this: when Kamehameha V established in 1850 the Board of Education, then shortly after statehood in the 1960s, when we went to an elected board, and now, today, when we go back to an appointed board. So, to remember Kamehameha V's charge, go to the remote areas, go to the most difficult places of Hawai'i, the places that the city tends to forget, and make sure that we get our fair share of education. By way of example, Hāna School in my district, under the weighted student formula cannot even pay for the basic core education that's needed to graduate. In fact, they rely on a grant from the superintendent's budget to meet the very basic needs. Moloka'i High School cannot meet the basic needs under the weighted student formula. Lāna'i, likewise. In fact, in the last two years I've introduced bills to simply exempt these schools from the weighted student formula and bring them back to categorical formula. Why? Because Kamehameha V's vision was education for all, not only education for those that are near the cities, not education only for those that can access it. Education for all.

"High schools suffer under the weight of a weighted student formula. It doesn't work for Hāna. It doesn't work for Moloka'i. It doesn't work Lāna'i. I also know it doesn't work for Ni'ihau. I also know it doesn't work for Ka'ū. So, Board of Education, I charge you: take care of Hāna, take care of Moloka'i, take care of Lāna'i. Do not forget, do not forget Kamehameha V's charge: education for all. Thank you, Mr. President."

Senator Baker rose in support of the nominees as follows:

"It's hard to follow the eloquent history lesson of my colleague from East Maui, but I feel compelled to rise in support not only of all of these nominees, but I'd like to say a couple of words in support of Governor's Message No. 659, which nominated Wesley Lo, as the Maui representative to the Board of Education. You know, my district includes the oldest school west of the Rockies and it, too, has some challenges with funding. We hear folks say, 'Well, you can't just throw money at education and expect change,' but I submit anything that we want to do that's going to cause change has a price tag to it, and in this day and age, perhaps a hefty price tag. But I'm certain that the members of the newly appointed Board of Education appreciate their challenge, and I'm delighted that Mr. Lo is among them, not just because his family goes to the public schools. He's a product of a private school education, but I think, because his children go to public school he can appreciate the challenges our public school system faces. His wife is a counselor at one of our fine public schools on Maui and so he's going to get that perspective as well. And I think all of the various perspectives, from business, from being able to run a large organization, to working in public finance at the County, we brings a wealth of experience to this position.

"I had the opportunity to work with Wes in the days when we were both in Mayor Apana's cabinet at the county and were looking at what we could do to help support our schools. We had an initiative back then to try to get more technology into our schools. So, I know that Wes cares about our children's education. He brings the ability to inspire, to take a large

organization and help give it the kind of moral support and leadership that are necessary to make the organization succeed. I also know how deeply committed he is to public service. And so, I feel that the kind of qualities he brings to the table, his commitment to public service, his commitment to education, are also reflected in the other members of the newly appointed Board. I'm pleased to stand with my other colleagues in support of this back-to-the-future effort in hopes that we will see a renewed energy to determine how we can best honor the words of Kamehameha V and educate all of our children. Aloha."

Senator Slom rose to request a Roll Call vote, and the Chair so ordered.

The motion was put by the Chair and, Roll Call vote having been requested, carried on the following showing of Ayes and Noes:

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

Stand. Com. Rep. No. 1265 (Gov. Msg. No. 651, 653, 654, 657 and 659):

Senator Tokuda moved that Stand. Com. Rep. No. 1265 be received and placed on file, seconded by Senator Kidani and carried.

Senator Tokuda then moved that the Senate advise and consent to the nominations to the State of Hawai'i Board of Education of the following:

DONALD G. HORNER, term to expire June 30, 2014 (Gov. Msg. No. 651);

KIMBERLY GENNAULA HAGI, term to expire June 30, 2013 (Gov. Msg. No. 653);

BRIAN J. DE LIMA, term to expire June 30, 2013 (Gov. Msg. No. 654);

JAMES D. WILLIAMS, term to expire June 30, 2014 (Gov. Msg. No. 657); and

WESLEY P. LO, term to expire June 30, 2014 (Gov. Msg. No. 659),

seconded by Senator Kidani.

Senator Tokuda rose in strong support of the nominees as follows:

"We have before us the inaugural nine, Hawai'i's very first fully appointed Board of Education—Chairman Don Horner, Members Keith Amemiya, Nancy Budd, Charlene Cuaresma, Brian De Lima, Kim Gennaula Hagi, Wesley Lo, Cheryl Ka'uhane Lupenui, and Jim Williams—true game changers that mark a turning point in the way decisions are made that directly affect our students, our schools, and ultimately all of our families and communities. While each of the nominees are impressive in their own right, this clearly is a case where the proverbial sum is greater than its parts. Sitting through the seven hours of confirmation hearings was like watching the pieces of a puzzle come together, and in the end, I believe everyone who witnessed the events walked away excited and hopeful, with a clear picture of what this board envisioned for the future. Among the nine, we have chief executive officers, university administrators, community leaders, educators, attorneys, and passionate advocates for more causes than I can mention.

"Your committee received 266 pieces of positive testimony from businesses, groups and organizations, and individuals that highlighted and praised the nominees for their commitment to public service and the unique skills and life experiences they would bring to the table. But beyond all of that, we were able to have honest and real discussions with the nominees about their

children and their families. We got a true sense of what motivates them personally and professionally and talked about their vision and tangible plans for building upon our successes and making our school communities even better. And while all in the room could sense the urgency of the mission at hand, one of our nominees reminded us of an African proverb: 'If you want to go fast, go alone. If you want to go far, go together.'

"While much hope and expectation, unrealistic or not, has been placed on the shoulders of these nominees, your committee acknowledged and committed our support to working with them to bring about positive change for our students and our schools. In closing, one of our nominees shared with us the final words her mother spoke to her when she was just 11 years old: 'Get a good education. Education is your ticket out.' It is my belief that if we as a community support and embrace the vision and the direction these inaugural nine have for our state educational system, our students will be holding onto tickets to wherever they want to go. Thank you very much, and I hope for your support of all of these nominations."

Senator Slom rose in strong support of the nominees as follows:

"As one who sat through all of the hours of hearings, I echo the sentiments of the Education Chairman. I think they were very fruitful. We asked them a lot of questions. They provided us with a lot of answers. This actually is a very momentous occasion. It's one of the few occasions when the state government actually reacted quickly, positively, and in a changed direction. We started out with the people last year, who overwhelmingly in November told us they were not satisfied with the status quo and business as usual. They wanted changes. They wanted a new direction. They wanted people that could think outside the box. And then, I wish to thank the Governor for his nominees. I think that they were all excellent. They represent a very diverse cross-section of our community. All of them bring passion and energy and a commitment to public service and to education. And that's what we say is the most important thing in Hawai'i and the most important thing that we do in the Legislature: to make education, public education, priority number one. Well, now we're going to have an opportunity to make that occur."

"This in many ways is a very unique position in history. The nominees know that they have a honeymoon period here, but they also know that everyone—and I mean everyone—is going to be watching them, is going to expect a great deal from them. But in listening to them, each one of them expects a great deal from themselves. They all have a shared vision of what can be: and that is an improved, first-class public education system that gives the parents, the teachers, and the taxpayers their money's worth. I think that in many ways we have a perfect storm. This opportunity could not have happened a couple of years ago, may not happen in the future, but it's happening right now, and I know that many of these people have already demonstrated their success in other fields in the community, but this is probably in many respects going to be their biggest challenge."

"They come in with their eyes wide open, but they're all confident, individually and as a group, that in fact they can make the changes that we expect. I've cautioned all of them to make sure that any level of frustration does not dampen or diminish the energy and the passion that they have because we've all been there. But we're all rooting for you, and we'll do everything that we can to help you. This is something that we can all share in. It's something that can be a total success. So, again, thank you all for your willingness to serve and thank you for the things that you are about to do. And, as far as the changes, Mr. President, I just wish we could apply some of this philosophy to the change in budgeting, taxation, and spending in this state. Thank you very much."

Senator English rose in support of the nominees as follows:

"From the time of the founding of the Board of Education by Kamehameha V in 1850 until early 1960s, the Board of Education was an appointed board. And shortly after statehood, the voters of Hawai'i decided that it should be an elected board. And the reason for that was too much concentration of power in the executive branch. Now, today, the voters have decided that it's time to streamline once again the Board of Education, to bring it back to an executive department and an appointed body. But, you know, Kamehameha V's vision still lives. When we were independent, our little country had the highest literacy rate in the world. Hawai'i had a literacy rate of 98 percent under the kingdom. Our government spent a vast majority of its budget on education. We established schools in the most remote villages of Hawai'i, paid teachers well to go to these remote, remote areas and teach people to read and write. You know, when Hawai'i was independent, our little country spoke at least three languages. Everyone spoke Ka 'ōlelo makua hine i Kēia 'āina nei; spoke Hawaiian. Most spoke English. And others still spoke another language. So, there's no reason that we cannot obtain high literacy rates again. I have great faith in this board, that they will remember the charge of Kamehameha V to educate Hawai'i; to make us one of the best."

"Members of the Senate, today we are standing at a very pivotal point in Hawaiian history. There's only two other times that we have dealt with this: when Kamehameha V established in 1850 the Board of Education, then shortly after statehood in the 1963s, when we went to an elected board, and now, today, when we go back to an appointed board. So, to remember Kamehameha V's charge, go to the remote areas, go to the most difficult places of Hawai'i, the places that the city tends to forget, and make sure that we get our fair share of education. By way of example, Hāna School in my district, under the weighted student formula cannot even pay for the basic core education that's needed to graduate. In fact, they rely on a grant from the superintendent's budget to meet the very basic needs. Moloka'i High School cannot meet the basic needs under the weighted student formula. Lāna'i, likewise. In fact, in the last two years I've introduced bills to simply exempt these schools from the weighted student formula and bring them back to categorical formula. Why? Because Kamehameha V's vision was education for all, not only education for those that are near the cities, not education only for those that can access it. Education for all."

"High schools suffer under the weight of a weighted student formula. It doesn't work for Hāna. It doesn't work for Moloka'i. It doesn't work Lāna'i. I also know it doesn't work for Ni'ihau. I also know it doesn't work for Ka'ū. So, Board of Education, I charge you: take care of Hāna, take care of Moloka'i, take care of Lāna'i. Do not forget, do not forget Kamehameha V's charge: education for all. Thank you, Mr. President."

Senator Baker rose in support of the nominees as follows:

"It's hard to follow the eloquent history lesson of my colleague from East Maui, but I feel compelled to rise in support not only of all of these nominees, but I'd like to say a couple of words in support of Governor's Message No. 659, which nominated Wesley Lo, as the Maui representative to the Board of Education. You know, my district includes the oldest school west of the Rockies and it, too, has some challenges with funding. We hear folks say, 'Well, you can't just throw money at education and expect change,' but I submit anything that we want to do that's going to cause change has a price tag to it, and in this day and age, perhaps a hefty price tag. But I'm certain that the members of the newly appointed Board of Education appreciate their challenge, and I'm delighted that Mr. Lo is among them, not just because his family goes to the public schools. He's a product of a private school education, but I

think, because his children go to public school he can appreciate the challenges our public school system faces. His wife is a counselor at one of our fine public schools on Mau'i and so he's going to get that perspective as well. And I think all of the various perspectives, from business, from being able to run a large organization, to working in public finance at the County, we brings a wealth of experience to this position.

"I had the opportunity to work with Wes in the days when we were both in Mayor Apana's cabinet at the county and were looking at what we could do to help support our schools. We had an initiative back then to try to get more technology into our schools. So, I know that Wes cares about our children's education. He brings the ability to inspire, to take a large organization and help give it the kind of moral support and leadership that are necessary to make the organization succeed. I also know how deeply committed he is to public service. And so, I feel that the kind of qualities he brings to the table, his commitment to public service, his commitment to education, are also reflected in the other members of the newly appointed Board. I'm pleased to stand with my other colleagues in support of this back-to-the-future effort in hopes that we will see a renewed energy to determine how we can best honor the words of Kamehameha V and educate all of our children. Aloha."

Senator Slom rose to request a Roll Call vote, and the Chair so ordered.

The motion was put by the Chair and, Roll Call vote having been requested, carried on the following showing of Ayes and Noes:

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

At this time, Senator Tokuda introduced the nine newly confirmed Board of Education members including Chair Donald G. Horner, Keith Amemiya, Charlene Cuaresma, Cheryl Ka'uhane Lupenui, Nancy Jo-Yamakawa Budd, Kimberly Gennaula Hagi, Brian J. De Lima, James D. Williams, and Wesley P. Lo, along with supporters and family members who were seated in the gallery.

At 11:59 a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:11 p.m.

Senator Espero introduced a group of students from 'Ewa Beach Elementary School who were visiting the Capitol.

Senator Chun Oakland introduced Barbara Kim Stanton, AARP Hawaii Director, and other members of AARP who were seated in the gallery.

### THIRD READING

H.B. No. 117, H.D. 2, S.D. 2:

On motion by Senator Dela Cruz, seconded by Senator Gabbard and carried, H.B. No. 117, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL MANAGEMENT AREAS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22; Ayes with Reservations (Fukunaga, Ihara). Noes, none. Excused, 3 (Kim, Taniguchi, Tokuda).

H.B. No. 1092, H.D. 1, S.D. 3:

Senator Ige moved that H.B. No. 1092, H.D. 1, S.D. 3, having been read throughout, pass Third Reading, seconded by Senator Kidani.

Senator Slom rose to speak in opposition to the measure and said:

"I know that the floor amendment probably eviscerated most of the—at least visible—harmful consequences, but any way you look at it, this is still a tax bill. It's still a tax on pensions. It still is going to go into conference committee, and there is a desire within this square building to tax the pensions of those who can least afford it. And those of us who have a jaundiced, cynical eye do not believe that just by temporarily raising the benchmark amount does not guarantee that it won't be lowered either this year in conference or next year if the bill is passed. So, the best thing to do, the safest thing to do, the most honest thing to do is to vote this bill down now. Thank you."

Senator Hee rose to speak in support of the measure and said:

"Notwithstanding the previous remarks made by the minority leader, in fact we went through great pains to take out any effort by the Legislature to tax the pensions of retirees to the extent that the Attorney General's language was inserted into the journal for the record and the Senate went beyond the state and county retirees from being taxed but also included all retirees beyond government retirees. Any predetermined fear by the previous speaker is not good enough reason in my view to vote against this bill because there are several vehicles that the insertion could be made. What we do know is what is before us. And it is a bill that is absent of any tax on any retiree beyond the state and county, to include the private sector and the federal government, as well. I urge my colleagues to stand with the retirees on this bill. Thank you very much."

The motion was put by the Chair and carried, H.B. No. 1092, H.D. 1, S.D. 3, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21; Ayes with Reservations (Green, Ihara). Noes, 1 (Slom). Excused, 3 (Kim, Taniguchi, Tokuda).

H.B. No. 922, S.D. 3:

On motion by Senator Hee, seconded by Senator Ige and carried, H.B. No. 922, S.D. 3, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LANDS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (Kim, Taniguchi, Tokuda).

H.B. No. 680, S.D. 2:

Senator Dela Cruz moved that H.B. No. 680, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Solomon.

Senator Fukunaga rose on a point of inquiry to the Chair of the Committee on Water, Land, and Housing as follows:

"Mr. Chairman, with respect to the amendments that have been made to H.B. 680, is it your understanding that the intent of the section giving HCDA the power to develop the Kaka'ako makai community development subdistrict is to incorporate and recognize the work of the CPAC Advisory Committee in shaping the principles for the community-based Kaka'ako Makai Master Plan?"

Senator Dela Cruz responded:

"Yes, that's my understanding of the intent of the amendments in Sections 1 and 4 of the bill."

Senator Fukunaga continued:

"Thank you. Otherwise it would have made no sense to add representatives of community stakeholder participants in the CPAC process as voting members of the HCDA Board for the Kaka'ako makai community development subdistrict. As such,



with that clarification, Mr. Chairman, I join you in recommending that our colleagues vote in support of H.B. 680, S.D. 2.”

Senators Shimabukuro and Ihara requested their votes be cast “aye, with reservations,” and the Chair so ordered.

The motion was put by the Chair and carried, H.B. No. 680, S.D. 2, entitled: “A BILL FOR AN ACT RELATING TO KAKAAKO,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21; Ayes with Reservations (Ihara, Shimabukuro). Noes, 1 (Slom). Excused, 3 (Kim, Taniguchi, Tokuda).

#### MISCELLANEOUS BUSINESS

##### WAIVER OF REFERRAL

Senator Green, Chair of the Committee on Health, requested that the referral of S.C.R. No. 136 to the Committee on Health be waived pursuant to Senate Rule 46(4):

Senator Green noted:

“By waiving the referral to this committee, this Senate concurrent resolution can be brought to the floor for a final vote by tomorrow’s First Crossover deadline.”

The Chair granted the waiver.

By unanimous consent, S.C.R. No. 136, entitled: “SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF HEALTH TO REVIEW EARLY CHILDHOOD DEVELOPMENTAL SCREENING PILOT PROJECTS AND MAKE RECOMMENDATIONS FOR THE DEVELOPMENT OF AN EARLY CHILDHOOD DEVELOPMENTAL SCREENING SYSTEM IN HAWAII,” was placed on the calendar for adoption on Friday, April 15, 2011.

Senator Ige, Chair of the Committee on Ways and Means, requested that the referral of S.C.R. No. 72, S.D. 1 and S.C.R. No. 85, S.D. 1 to the Committee on Ways and Means be waived pursuant to Senate Rule 46(4):

Senator Ige noted:

“Your committee notes that these SCRs were heard and passed by the prior subject matter committee. By waiving the referral to this committee, these two Senate concurrent resolutions can be brought to the floor for a final vote by tomorrow’s First Crossover deadline.”

The Chair granted the waiver.

By unanimous consent, the following resolutions were placed on the calendar for adoption on Friday, April 15, 2011:

S.C.R. No. 72, S.D. 1, entitled: “SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF PUBLIC SAFETY TO RETURN HAWAII PRISONERS HELD IN MAINLAND FACILITIES AND TO CONSIDER CONSTRUCTION OF A NEW PRISON, RE-ENTRY CENTER, OR OTHER CORRECTIONAL FACILITY ON THE BIG ISLAND,” and

S.C.R. No. 85, S.D. 1, entitled: “SENATE CONCURRENT RESOLUTION REQUESTING THE AUDITOR TO CONDUCT AN AUDIT RELATING TO GEOTHERMAL RESOURCES.”

At this time, the Chair made the following announcements:

“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.

“The deadline to file standing committee reports on Senate concurrent resolutions to meet tomorrow’s crossover deadline is 6:00 p.m. this evening.”

#### ADJOURNMENT

At 12:19 p.m., on motion by Senator Espero, seconded by Senator Slom and carried, the Senate adjourned until 11:30 a.m., Friday, April 15, 2011.