

## NINTH DAY

## Wednesday, February 1, 2012

The Senate of the Twenty-Sixth Legislature of the State of Hawai'i, Regular Session of 2012, convened at 11:33 a.m. with the President in the Chair.

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

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

At this time, Senator Ihara introduced a group of fifth-grade students from Kaimuki Christian School who were accompanied by teachers Jane McClair and Chau Sachs; parents Welton Wong and Masako Lieu; grandparents Veronica Ohashi and Elaine Kawazoe; and DOE skills trainer Chevelle Acosta.

Senator Slom welcomed Mr. Dick Rowland, Founder and President of Grassroot Institute of Hawaii, as well as guests from The Heritage Foundation in Washington, D.C. including Jennifer Marshall, director of domestic policy studies, and J.B. Horton, manager of major gifts.

## DEPARTMENTAL COMMUNICATIONS

The following communications (Dept. Com. Nos. 66 to 68) were read by the Clerk and were placed on file:

Dept. Com. No. 66, from the City Clerk, City and County of Honolulu, dated January 27, 2012, transmitting Resolution 11-308, CD1; Resolution 11-366, CD1, FD1; and Resolution 12-3, which were adopted by the Council of the City and County of Honolulu on January 25, 2012.

Dept. Com. No. 67, from the Office of Elections dated January 30, 2012, transmitting the Report Relating to Office of Election Budget Provisions pursuant to Act 164, Section 31, SLH 2011.

Dept. Com. No. 68, from the Kauai Police Department dated December 30, 2011, transmitting the 2011 Annual Report on Misconduct pursuant to Section 52D-3.5, HRS.

## HOUSE COMMUNICATION

The following communication from the House (Hse. Com. No. 5) was read by the Clerk and was disposed of as follows:

Hse. Com. No. 5, transmitting H.B. No. 1927, which passed Third Reading in the House of Representatives on January 31, 2012, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, H.B. No. 1927, entitled: "A BILL FOR AN ACT RELATING TO CAMPAIGN SPENDING COMMISSION LAW," passed First Reading by title and was referred to the Committee on Judiciary and Labor.

## SENATE CONCURRENT RESOLUTIONS

The following concurrent resolutions (S.C.R. Nos. 30 and 31) were read by the Clerk and were deferred:

S.C.R. No. 30 "SENATE CONCURRENT RESOLUTION A RESOLUTION URGING CONGRESS TO AMEND THE UNFUNDED MANDATES REFORM ACT."

Offered by: Senators Slom, Chun Oakland, Green, Baker, Fukunaga, Galuteria, Ige, Kim, Ryan, Shimabukuro, Solomon, Wakai.

S.C.R. No. 31 "SENATE CONCURRENT RESOLUTION A RESOLUTION REAFFIRMING HAWAII'S SOVEREIGNTY UNDER THE TENTH AMENDMENT TO

THE CONSTITUTION OF THE UNITED STATES AND DEMANDING THE FEDERAL GOVERNMENT TO HALT ITS PRACTICE OF ASSUMING POWERS AND IMPOSING MANDATES ON THE STATES FOR PURPOSES NOT ENUMERATED IN THE CONSTITUTION OF THE UNITED STATES."

Offered by: Senator Slom.

## ORDER OF THE DAY

## FINAL READING

## MATTER DEFERRED FROM TUESDAY, JANUARY 31, 2012

Conf. Com. Rep. No. 1-12 (H.B. No. 608, H.D. 3, S.D. 1, C.D. 1):

Senator Green moved that Conf. Com. Rep. No. 1-12 be adopted and H.B. No. 608, H.D. 3, S.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Chun Oakland.

Senator Green then offered the following amendment (Floor Amendment No. 1) to H.B. No. 608, H.D. 3, S.D. 1, C.D. 1:

SECTION 1. House Bill No. 608, H.D. 3, S.D. 1, C.D. 1, is amended by amending Section 2 to read as follows:

"SECTION 2. The legislature finds that organ transplantation is a life-saving therapy for many critically ill patients with end-stage diseases. More than one hundred ten thousand patients are on the national organ transplant waiting list; four hundred seven of those patients are Hawaii residents.

Funding is critical to maintain a federally-recognized stage 3 chronic kidney disease program that focuses on prevention for disparate populations in Hawaii. Without operational organ transplant services in the State, patients with end-stage diseases must register on transplant waiting lists for mainland transplant centers and many of these patients will face a longer waiting time to receive a donor organ at a transplant center on the mainland than at a transplant center in Hawaii. The increased waiting time for an organ may mean that the sickest of those patients may not survive long enough for a donor organ to become available. In addition to the increased waiting time, many waitlisted patients in the State will have the additional burden of relocating to other areas of the country, away from friends and family, while awaiting a donor organ and during their recovery.

An emergency appropriation is necessary to preserve and save the lives of individuals combating organ failure by providing them with access to organ transplantation in the State and giving them quality care and treatment throughout their operation and recovery.

National Kidney Foundation of Hawaii provides a federally-recognized chronic kidney disease management program in Hawaii. It meets the eligibility requirements of section 42F-103, Hawaii Revised Statutes, for recipients of grants and subsidies. The Queen's Medical Center is establishing a kidney and liver transplant program in Hawaii. It also meets the eligibility requirements of section 42F-103, Hawaii Revised Statutes, for recipients of grants and subsidies, with the exception of approval as a member of the Organ Procurement and Transplantation Network/United Network for Organ Sharing with designations as a liver transplant program and a kidney and living donor kidney transplant program, for which it has applied and which it expects to receive approval on or before February 15, 2012.

The purpose of this Act is to appropriate emergency funds, subject to dollar-for-dollar private matching funds, to support services by The Queen's Medical Center to perform kidney and liver transplants in Hawaii, and by the National Kidney Foundation of Hawaii to maintain its chronic kidney disease management program."

SECTION 2. House Bill No. 608, H.D. 3, S.D. 1, C.D. 1, is amended by amending Section 3 to read as follows:

"SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,500,000 or so much thereof as may be necessary for fiscal year 2011-2012 as a grant pursuant to chapter 42F, Hawaii Revised Statutes, for The Queen's Medical Center to support services to perform kidney and liver transplants in Hawaii; provided that:

- (1) No funds appropriated under this Act shall be expended unless matched dollar-for-dollar with private funds; and
- (2) Any private matching funds obtained for the purposes of this Act shall have priority in being encumbered over public funds.

The sum appropriated shall be expended by the department of health for the purposes of this Act."

SECTION 3. House Bill No. 608, H.D. 3, S.D. 1, C.D. 1, is amended by deleting Section 4.

SECTION 4. House Bill No. 608, H.D. 3, S.D. 1, C.D. 1, is amended by adding two new sections to read as follows:

"SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$300,000 or so much thereof as may be necessary for fiscal year 2011-2012 as a grant pursuant to chapter 42F, Hawaii Revised Statutes, for National Kidney Foundation of Hawaii to maintain its chronic kidney disease management program; provided that:

- (1) No funds appropriated under this Act shall be expended unless matched dollar-for-dollar with private funds; and
- (2) Any private matching funds obtained for the purposes of this Act shall have priority in being encumbered over public funds.

The sum appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 5. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable."

SECTION 5. House Bill No. 608, H.D. 3, S.D. 1, C.D. 1, is amended by renumbering Section 5 to Section 6 and amending it to read as follows:

"SECTION 6. This Act shall take effect upon its approval; provided that section 3 of this Act shall take effect on the date on which The Queen's Medical Center obtains approval as a member of the Organ Procurement and Transplantation Network/United Network for Organ Sharing with designations as a liver transplant program and a kidney and living donor kidney transplant program, and provided that a copy of the document evidencing the approval is delivered to the department of health."

Senator Green moved that Floor Amendment No. 1 be adopted, seconded by Senator Espero.

Senator Green rose to speak in support of the amendment as follows:

"Members, this is the appropriation for The Queen's Hospital and the National Kidney Foundation. It's a \$1.8 million appropriation that we've done in emergency fashion as a result of HMC closing. As you know, the state would have difficulty—if not that it would actually be impossible—to continue to give individuals organ transplants in the state if we don't do this. There are 407 individuals on the waitlist in Hawai'i waiting for liver and kidney transplants. These are life-saving procedures.

"Just to give you a brief description, we had to do some amendments—and our apologies from the Health Committies—to clean up some language. We didn't want to get this wrong. We wanted to make sure these monies got to them so that there is a seamless ability to care for people in Hawai'i. This is essentially a grant-in-aid now; it's the way to look at it. One point five million dollars for Queen's; it's matching dollars, private dollar-for-dollar, for the transplant, and then \$300,000 for the National Kidney Foundation.

"I should also say that there was also some important technical language that the Attorney General has brought to our attention, specifically because the reason for some of the delay was on February 15—that's the date that The Queen's Hospital actually is expecting to get their certification for kidney transplant. They already have their certification for liver transplant. Also, we had to clarify that these will be for services that they begin to render, because were offered at a different hospital. Those are the reasons that there had to be several clarifications in the floor amendment, but there's nothing that's substantially changed from what we were discussing and voting before, and the expectation would be with your support that we would move this next on Friday. Thank you, Mr. President."

Senator Slom rose to speak in support of the amendment as follows:

"I note that everybody has been trying to fasttrack this bill, and that it had actually been on the docket for final reading for a number of days now. And as I've tried to caution my colleagues in the past, I would rather see a bill done correctly and all of the problems ironed out before we vote on the bill and find out that we've missed some of the points or that the bill is defective. Unfortunately, we haven't always done this in the past, so I congratulate the Health Committee Chairman for the due diligence here.

"I think it also points out the fact that even though we thought that this was an easy procedure—just give money to Queen's, have Queen's match this, they have the certification—that there always are a lot of unintended consequences and a lot of steps along the way. And so I would urge in this, and final bills, that we continue to do our due diligence. Make sure that we hear from everyone, and make sure that we have accuracy rather than just speed. Thank you, Mr. President."

Senator Wakai rose and said:

"I wish to disclose a potential conflict of interest I have over this bill. This bill specifically outlines that \$300,000 would be going to the National Kidney Foundation of Hawaii. In my capacity outside of this building, I have a contract with the National Kidney Foundation of Hawaii to take care of all of their public relations needs."

The Chair noted the conflict of interest and ordered the Clerk to record the vote with Senator Wakai as excused.

Senator Green rose in response and said:

"I just wanted to add one more thing: I thank Senator Slom for his comments. And also everyone should be very aware that these are resources for services going forward. It was very important that we specify that for the record because it's not in

the Department of Health’s purview to do a grant for something in the past. These are purely for services going forward, which would be matched by the private sector. Thank you, Mr. President.”

The motion to adopt Floor Amendment No. 1 was put by the Chair and carried with Senator Wakai noted as excused.

The Chair then said:

“The Clerk is directed to file Conf. Com. Rep. No. 1-12.”

By unanimous consent, H.B. No. 608, H.D. 3, S.D. 1, C.D. 2, entitled: “A BILL FOR AN ACT RELATING TO HEALTH,” was placed on the calendar for Final Reading on Thursday, February 2, 2012.

**FINAL READING**

Conf. Com. Rep. No. 4-12 (H.B. No. 905, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Green, seconded by Senator Chun Oakland and carried, Conf. Com. Rep. No. 4-12 was adopted and H.B. No. 905, H.D. 1, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO DELIVERY OF GOVERNMENT SERVICES,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

At this time, the Chair made the following announcement:

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

**REFERRAL OF SENATE CONCURRENT RESOLUTIONS**

The President made the following committee assignments of Senate concurrent resolutions offered on Wednesday, January 25, 2012; and Friday, January 27, 2012:

- S.C.R. No.: Referred to:
- S.C.R. No. 4 Committee on Health
- S.C.R. No. 5 Committee on Public Safety, Government Operations, and Military Affairs
- S.C.R. No. 6 Committee on Public Safety, Government Operations, and Military Affairs, then to the Committee on Ways and Means
- S.C.R. No. 7 Committee on Public Safety, Government Operations, and Military Affairs, then to the Committee on Judiciary and Labor
- S.C.R. No. 8 Jointly to the Committee on Human Services and the Committee on Public Safety, Government Operations, and Military Affairs
- S.C.R. No. 9 Committee on Public Safety, Government Operations, and Military Affairs
- S.C.R. No. 10 Committee on Public Safety, Government Operations, and Military Affairs
- S.C.R. No. 11 Committee on Health

- S.C.R. No. 12 Committee on Water, Land, and Housing, then to the Committee on Ways and Means
- S.C.R. No. 13 Committee on Commerce and Consumer Protection, then to the Committee on Ways and Means
- S.C.R. No. 14 Jointly to the Committee on Public Safety, Government Operations, and Military Affairs and the Committee on Commerce and Consumer Protection, then to the Committee on Ways and Means
- S.C.R. No. 15 Jointly to the Committee on Transportation and International Affairs and the Committee on Public Safety, Government Operations, and Military Affairs
- S.C.R. No. 16 Committee on Ways and Means
- S.C.R. No. 17 Committee on Hawaiian Affairs
- S.C.R. No. 18 Committee on Water, Land, and Housing, then to the Committee on Ways and Means
- S.C.R. No. 19 Committee on Water, Land, and Housing, then to the Committee on Ways and Means
- S.C.R. No. 20 Committee on Water, Land, and Housing, then to the Committee on Ways and Means
- S.C.R. No. 21 Committee on Water, Land, and Housing, then to the Committee on Ways and Means
- S.C.R. No. 22 Committee on Water, Land, and Housing, then to the Committee on Ways and Means
- S.C.R. No. 23 Committee on Water, Land, and Housing, then to the Committee on Ways and Means
- S.C.R. No. 24 Committee on Water, Land, and Housing, then to the Committee on Ways and Means
- S.C.R. No. 25 Committee on Water, Land, and Housing, then to the Committee on Ways and Means
- S.C.R. No. 26 Jointly to the Committee on Health and the Committee on Human Services and the Committee on Judiciary and Labor, then to the Committee on Ways and Means
- S.C.R. No. 27 Committee on Commerce and Consumer Protection, then to the Committee on Ways and Means
- S.C.R. No. 28 Committee on Economic Development and Technology
- S.C.R. No. 29 Committee on Economic Development and Technology

**REFERRAL OF SENATE RESOLUTIONS**

The President made the following committee assignments of Senate resolutions offered on Wednesday, January 25, 2012:

S.R. No.:	Referred to:
S.R. No. 5	Committee on Health
S.R. No. 6	Committee on Public Safety, Government Operations, and Military Affairs
S.R. No. 7	Committee on Public Safety, Government Operations, and Military Affairs, then to the Committee on Judiciary and Labor
S.R. No. 8	Jointly to the Committee on Human Services and the Committee on Public Safety, Government Operations, and Military Affairs
S.R. No. 9	Committee on Public Safety, Government Operations, and Military Affairs
S.R. No. 10	Committee on Public Safety, Government Operations, and Military Affairs
S.R. No. 11	Jointly to the Committee on Transportation and International Affairs and the Committee on Public Safety, Government Operations, and Military Affairs, then to the Committee on Ways and Means

**RE-REFERRAL OF SENATE BILLS**

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

S.B. No.:	Re-referred to:
S.B. No. 2891	Jointly to the Committee on Agriculture and the Committee on Commerce and Consumer Protection, then to the Committee on Judiciary and Labor
S.B. No. 2954	Committee on Judiciary and Labor, then to the Committee on Ways and Means

**ADJOURNMENT**

At 11:45 a.m., on motion by Senator Espero, seconded by Senator Slom and carried, the Senate adjourned until 11:30 a.m., Thursday, February 2, 2012.