

TENTH DAY

Thursday, February 2, 2012

The Senate of the Twenty-Sixth Legislature of the State of Hawai'i, Regular Session of 2012, convened at 11:32 a.m. with the President in the Chair.

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

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

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 206 and 207 and 607 to 617) were read by the Clerk and were disposed of as follows:

Gov. Msg. No. 206, dated January 31, 2012, transmitting the Report on the Plans and Activities of the Public Land Development Corporation, prepared by the Department of Land and Natural Resources pursuant to Section 171C-20, HRS, was placed on file.

Gov. Msg. No. 207, dated February 1, 2012, transmitting the Report on Agencies that Delegate the Audit Responsibility and Transfer of Funds, prepared by the Department of Accounting and General Services pursuant to Act 162, Section 116, SLH 2009, was placed on file.

Gov. Msg. No. 607, submitting for consideration and confirmation to the Board of Directors of the Hawai'i Health Connector, the nomination of SHERRY MENOR-MCNAMARA, was referred to the Committee on Commerce and Consumer Protection.

Gov. Msg. No. 608, submitting for consideration and confirmation to the Board of Directors of the Hawai'i Health Connector, the nomination of MARY ONEHA, was referred to the Committee on Commerce and Consumer Protection.

Gov. Msg. No. 609, submitting for consideration and confirmation to the Board of Directors of the Hawai'i Health Connector, the nomination of ROBERT HIROKAWA, was referred to the Committee on Commerce and Consumer Protection.

Gov. Msg. No. 610, submitting for consideration and confirmation to the Board of Directors of the Hawai'i Health Connector, the nomination of CLIFFORD ALAKAI, was referred to the Committee on Commerce and Consumer Protection.

Gov. Msg. No. 611, submitting for consideration and confirmation to the Board of Directors of the Hawai'i Health Connector, the nomination of GWEN RULONA, was referred to the Committee on Commerce and Consumer Protection.

Gov. Msg. No. 612, submitting for consideration and confirmation to the Board of Directors of the Hawai'i Health Connector, the nomination of CHRISTINE SAKUDA, was referred to the Committee on Commerce and Consumer Protection.

Gov. Msg. No. 613, submitting for consideration and confirmation to the Board of Directors of the Hawai'i Health Connector, the nomination of JOAN DANIELEY, was referred to the Committee on Commerce and Consumer Protection.

Gov. Msg. No. 614, submitting for consideration and confirmation to the Board of Directors of the Hawai'i Health Connector, the nomination of JENNIFER DIESMAN, was

referred to the Committee on Commerce and Consumer Protection.

Gov. Msg. No. 615, submitting for consideration and confirmation to the Board of Directors of the Hawai'i Health Connector, the nomination of MICHAEL GLEASON, was referred to the Committee on Commerce and Consumer Protection.

Gov. Msg. No. 616, submitting for consideration and confirmation to the Board of Directors of the Hawai'i Health Connector, the nomination of HARRIS NAKAMOTO, was referred to the Committee on Commerce and Consumer Protection.

Gov. Msg. No. 617, submitting for consideration and confirmation to the Board of Directors of the Hawai'i Health Connector, the nomination of FAYE KURREN, was referred to the Committee on Commerce and Consumer Protection.

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 6 and 7) were read by the Clerk and were disposed of as follows:

Hse. Com. No. 6, informing the Senate that on February 1, 2012, H.B. No. 905, H.D. 1, S.D. 1, C.D. 1 passed Final Reading in the House of Representatives, was placed on file.

Hse. Com. No. 7, transmitting H.C.R. No. 35, which was adopted by the House of Representatives on February 1, 2012, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, H.C.R. No. 35, entitled: "HOUSE CONCURRENT RESOLUTION AWARDING THE HAWAII MEDAL OF HONOR TO UNITED STATES MILITARY SERVICE MEMBERS WITH HAWAII CONNECTIONS KILLED IN ACTION WHILE SERVING IN DANGEROUS, VOLATILE, AND UNSTABLE AREAS OF THE WORLD, INCLUDING IRAQ AND AFGHANISTAN," was adopted.

STANDING COMMITTEE REPORTS

Senator Hee, for the Committee on Judiciary and Labor, presented a report (Stand. Com. Rep. No. 2006) recommending that S.B. No. 2213, 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. 2213, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CIVIL SERVICE," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Hee, for the majority of the Committee on Judiciary and Labor, presented a report (Stand. Com. Rep. No. 2007) recommending that S.B. No. 2220 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 majority of the Committee was adopted and S.B. No. 2220, entitled: "A BILL FOR AN ACT RELATING TO THE BOILER AND ELEVATOR SAFETY LAW," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Hee, for the majority of the Committee on Judiciary and Labor, presented a report (Stand. Com. Rep. No. 2008) recommending that S.B. No. 2203, 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 majority of the Committee was adopted and S.B. No. 2203, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LABOR," passed Second Reading and was referred to the Committee on Ways and Means.

Senator English, for the Committee on Transportation and International Affairs, presented a report (Stand. Com. Rep. No. 2009) recommending that S.B. No. 61, 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. 61, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO STATEWIDE TRAFFIC CODE," passed Second Reading and was referred to the Committee on Judiciary and Labor.

Senator English, for the Committee on Transportation and International Affairs, presented a report (Stand. Com. Rep. No. 2010) recommending that S.B. No. 2333, 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. 2333, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PERSONAL IDENTIFICATION INFORMATION," passed Second Reading and was referred to the Committee on Judiciary and Labor.

Senator English, for the Committee on Transportation and International Affairs, presented a report (Stand. Com. Rep. No. 2011) recommending that S.B. No. 2968, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Commerce and Consumer Protection.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 2968, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE INSURANCE," passed Second Reading and was referred to the Committee on Commerce and Consumer Protection.

Senator Nishihara, for the Committee on Agriculture, presented a report (Stand. Com. Rep. No. 2012) recommending that S.B. No. 2691 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. 2691, entitled: "A BILL FOR AN ACT RELATING TO THE BOARD OF AGRICULTURE," passed Second Reading and was placed on the calendar for Third Reading on Friday, February 3, 2012.

Senator English, for the Committee on Transportation and International Affairs, presented a report (Stand. Com. Rep. No. 2013) recommending that S.B. No. 2517, 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. 2517, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TRAFFIC VIOLATION RECORDS," passed Second Reading and was referred to the Committee on Judiciary and Labor.

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."

ORDER OF THE DAY

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. 2232	Committee on Judiciary and Labor

Senator Solomon rose to speak on a point of personal privilege as follows:

"Thank you, Mr. President. I caught the plane and came to O'ahu and I was disturbed when I read this article in the *Star Advertiser* this morning: 'Gambling Bills Given Little Chance.' This was communicated to the press by Pono Chong, the majority leader in the House. In particular, Mr. President, the House was discussing the bill, whether or not Hawaiian Home Lands (meaning the Hawaiian Homes Commission) would be given the authority to decide whether to permit gaming operations, including bingo, lotteries, casinos, or other forms of gambling on Hawaiian home lands. They, the House, were not only discussing the issue of gaming, but whether or not the Hawaiians should be given that prerogative.

"I am in support of the Chairman of Department of Hawaiian Home Lands, Alapaki Nahale-a. The Hawaiian Home Lands director offered comments on the bill saying, 'It was not an issue about whether gambling would benefit Native Hawaiians or the state as a whole, but one of self determination.' The comment that I found most offensive was made by Dianne Kay of the Hawaii Coalition Against Legalized Gambling. She states, 'This action would exploit the Native Hawaiians for the benefit of mainland gambling interests, and the culture and the quality of life of Native Hawaiians would not be self-sustaining.' In rebut, Chair Nahale-a said, 'I have full faith not only in our commission but in our Hawaiian homestead beneficiaries, that they would vet this better than anyone else in the State of Hawai'i. They would make sure that if gaming were allowed, it would be the right kind of gaming for our people and the state and it would have safeguards in place.'

"Mr. President, the Governor signed a bill that is now Act 195, that recognizes the self determination of the Native Hawaiian people. It really distresses me when comments such as these made by Dianne Kay imply that we are in fact not capable of being able to make pono decisions. I'm hoping that the Senate would remain open on the idea of gaming on Hawaiian Home Lands. I want to remind the House, and put them on notice, that there's another house here called the Senate. They're not the only ones that are making the decisions for the people of Hawai'i nei.

"Mr. Radcliffe had shared some interesting information with me today as to the health of our ERS and EUTF systems here in Hawai'i nei. I was under the impression that we were at \$1.3 billion—our deficit—but unbeknownst to me, Mr. President, it's more, much more than that: \$7 billion plus. The State of Hawai'i will need to pay down these untended liabilities at the rate of \$300 to \$700 million annually. In your discussions, Mr. President, on a point of information, in your discussions with House leadership, is the House serious about purposive solutions to solve the deficit problems we are facing as a state? Or are they simply looking at short term solutions as we go from session to session? Next year, Mr. President, I think if we continue down this path we will grow the deficit."

The Chair responded as follows:

"Senator Solomon, I certainly believe that both houses, both the House and Senate, are committed to dealing with our budget deficit. I believe it's still early in the session; I know there are a

number of items that are still on the table, and the Senate will remain open to all options.”

Senator Solomon continued:

“Thank you very much, Mr. President. I feel that we should encourage our colleagues in the House to keep our options open. Allow ideas, look to ways so departments can increase their self-sufficiency, to be able to provide funds for their own programs. Hawaiians, in particular, if they feel that gaming is a feasible possibility to fund these initiative—maika’i. Mr. President, I’m urging all my colleagues to remain open on the idea of gaming for Hawaiians on their Hawaiian Home Land. Thank you very much, Mr. President.”

Senator Solomon’s additional written remarks read as follows:

“The economy. It is less rosy than the recent not so rosy prognostications of the Council on Revenues. They had earlier predicted that tax collections would come in at a growth rate of 14.5%. Which is very high. Then on January 5th, they downgraded that to 11.5% which some members of the Council thought was still too high, and in March, when they meet again, I am personally predicting that the number could be closer to 8.5%. By the way, actual tax collections are coming in at around a 6.5% increase. What does that mean? It means that the budget currently being worked on could be minus several hundred million dollars that are currently being considered—and that it will not balance without tax increases or cuts in service.

“Which brings me, to the real health of the government. I came in last year and told you that the Lingle Administration—which had been very good for UHPA, had decimated most of the rest of government. Most of government is engaged in regulation and shuffling papers needed to keep business and commerce going. I do not use ‘paper shuffling’ in any negative way. Everything in government has to be written, produced, checked, and re-checked in order to be dealt with competently and fairly. When the regulators and the paper shufflers aren’t there, business slows down, commerce gets more difficult to transact. Governor Abercrombie has gone out to all departments and talked to the rank and file with sincerity and sensitivity. He has put in department heads that have sympathized and empathized. This has helped. But the fact your government is just plain smaller than it was, and not as small as it will be. Government is shrinking.

“And it is getting tough to get workers. The benefits since 1999, have shrunk, shrunk, shrunk. And it is not only smaller and shrinking, it is bleeding out. For those not familiar with it, the term means to die by exsanguinations. When a mammal is dying of wounds, it often is not due to any cut or blast to the heart, head, or vital organ, it is due to a loss of blood. Money is blood to a government. When there’s not enough, it can be transfused in by taxation or by growing some new sources of income. But if the wounds cannot be staunched, it won’t matter. The organism bleeds out and dies. Hawai’i government is not mammalian, but it is bleeding out through the Employee Retirement System and the companion, Employer Union Health Fund. And by Hawaii government, I mean the state, the four counties, the state hospitals, the state university system, and the department of education—all of it.

“Here are the facts: there are 115,000 employees and retirees in the (ERS/EUTF) system. Forty-nine thousand of them—of us—are retired. Almost all of ‘us’ get a retirement stipend plus full, free, health benefits for ourselves and our families. That leaves 66,000 workers, actives, in the system. They pay 50% of their health fund premiums—a very heavy burden. Of the 66,000 actives, only 15,000 are not vested and/or not eligible for immediate retirement. Let me underscore that: 51,000 of the

current active work force is either already vested, or already eligible to retire. And, on average, 2,000 workers are retiring each year. The ERS is paying out \$1 billion in benefits this year to 40,000 retirees. That amount goes up every year. The current unfunded liability to the ERS is about \$9 billion and going up at a rate of 8% a year. Bleeding out. More to the bleeding out point, the ERS is bringing in \$700 million a year from all sources—investments, employer paid amounts, and amounts paid by employees. And paying out \$300 million more. It is bleeding out. I have seen the actuarial figures for the next 30 years and what they show is that the fund will lose money every year until it just-ends. Bled out.

“The EUTF is in far worse shape, because unlike the ERS, it has no corpus, no investments at all. It is 100% pay as you go. And it has an unfunded liability of \$14.7 billion. One does not need to be a math whiz to appreciate that with 49,000 retirees and 66,000 active employees, and 2,000 actives retiring each year, by 2015, that is, in three years, there will be as many retirees as active workers. And the unfunded EUTF liability is going up, not at 8% a year, but at 11% a year.”

Senator Kahele rose and said:

“Thank you, Mr. President. I would like the record to show that I support the words of the previous speaker who eloquently stated her viewpoints, and I do 100 percent support what she has said. Thank you very much, Mr. President.”

ADJOURNMENT

At 11:42 a.m., on motion by Senator Espero, seconded by Senator Slom and carried, the Senate adjourned until 11:30 a.m., Friday, February 3, 2012.