

FIFTEENTH DAY

Thursday, February 9, 2012

The Senate of the Twenty-Sixth Legislature of the State of Hawai'i, Regular Session of 2012, convened at 11:34 a.m. with the President in the Chair.

The Roll was called showing all Senators present.

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

At this time, Senator Slom introduced a group of students from Hahaione Elementary School who were accompanied by their teachers Ms. Kimura, Ms. Ogata, and Ms. Petrides; and chaperones Mrs. Madrid, Mr. Nishibun, Mr. Soronaka, Mrs. Kunitomo, Mrs. Nagasako, and Mrs. Dyball.

Senator Kouchi noted the presence of Jennifer Kimura, daughter of Joy Kimura of his office, who was seated in the gallery with her classmates from Hahaione Elementary School.

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 209 and 210) were read by the Clerk and were placed on file:

Gov. Msg. No. 209, dated February 3, 2012, transmitting the CIP-Funded Staff Expenditure Report, prepared by the Hawaii Community Development Authority pursuant to Act 164, Section 37, SLH 2011.

Gov. Msg. No. 210, letter dated February 8, 2012, 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. 2809, which appropriates funds to address the budget shortfall for General Support for Health Care Payments (HMS 902), and requesting the Legislature to amend this measure to appropriate funds to address the budget shortfall for the General Assistance Program (HMS 204).

SENATE COMMUNICATION

The following communication (Sen. Com. No. 2) was read by the Clerk and was disposed of as follows:

Sen. Com. No. 2, notice to Governor dated February 8, 2012, transmitting S.B. No. 2209, which proposes an amendment to the Hawaii State Constitution, was placed on file.

By unanimous consent, the following notice was sent to the Governor:

"February 8, 2012

The Honorable Neil Abercrombie
Governor of the State of Hawaii
State Capitol
Honolulu, Hawaii 96813

Dear Governor Abercrombie:

In accordance with the provisions of Article XVII, Section 3 of the Hawaii State Constitution, written notice is hereby given of the final form of the following bill, a copy of which is attached hereto:

S.B. No. 2209

"PROPOSING AN AMENDMENT TO ARTICLE VI, SECTION 4, OF THE HAWAII STATE CONSTITUTION TO REQUIRE THE JUDICIAL SELECTION COMMISSION TO DISCLOSE THE NAMES OF AND CERTAIN INFORMATION REGARDING ACTIVE NOMINEES AND

APPLICANTS TO FILL JUSTICE AND JUDGE VACANCIES."

Respectfully,

/s/ Carol Taniguchi
CAROL T. TANIGUCHI
Clerk of the Senate"

SENATE CONCURRENT RESOLUTIONS

The following concurrent resolutions (S.C.R. Nos. 37 to 39) were read by the Clerk and were deferred:

S.C.R. No. 37 "SENATE CONCURRENT RESOLUTION REQUESTING THE AUDITOR TO CONDUCT A FINANCIAL AND MANAGEMENT AUDIT OF THOSE STATE AGENCIES WITH SALARY AND WAGE OVERPAYMENTS."

Offered by: Senator Kim.

S.C.R. No. 38 "SENATE CONCURRENT RESOLUTION REQUESTING A SUNRISE ANALYSIS OF THE PROPOSED LICENSING OF COLON HYDROTHERAPISTS AND COLON HYDROTHERAPY ESTABLISHMENTS."

Offered by: Senators English, Baker, Espero, Fukunaga, Gabbard, Galuteria, Ige, Kahele, Kidani, Kim, Kouchi, Taniguchi, Tokuda.

S.C.R. No. 39 "SENATE CONCURRENT RESOLUTION DIRECTING THE ATTORNEY GENERAL OF THE STATE OF HAWAII TO INVESTIGATE CASES WHERE FRAUDULENT TRANSFERS AND ASSIGNMENTS OF MORTGAGE LOAN DOCUMENTS ARE ALLEGED."

Offered by: Senators Tsutsui, Baker, English, Espero, Fukunaga, Galuteria, Ige, Kim, Taniguchi, Dela Cruz, Green, Ihara, Ryan, Wakai.

SENATE RESOLUTION

The following resolution (S.R. No. 16) was read by the Clerk and was deferred:

S.R. No. 16 "SENATE RESOLUTION DIRECTING THE ATTORNEY GENERAL OF THE STATE OF HAWAII TO INVESTIGATE CASES WHERE FRAUDULENT TRANSFERS AND ASSIGNMENTS OF MORTGAGE LOAN DOCUMENTS ARE ALLEGED."

Offered by: Senators Tsutsui, Baker, English, Espero, Fukunaga, Galuteria, Ige, Ihara, Kim, Taniguchi, Dela Cruz, Green, Ryan, Wakai.

STANDING COMMITTEE REPORTS

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 2068) recommending that S.B. No. 2759, 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. 2759, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SECURITIES," passed Second Reading and

was placed on the calendar for Third Reading on Monday, February 13, 2012.

Senators Hee and Espero, for the Committee on Judiciary and Labor and the Committee on Public Safety, Government Operations, and Military Affairs, presented a joint report (Stand. Com. Rep. No. 2069) recommending that H.B. No. 246, H.D. 1, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the joint report of the Committees was adopted and H.B. No. 246, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO APPROPRIATIONS TO THE DEPARTMENT OF THE PROSECUTING ATTORNEY OF THE CITY AND COUNTY OF HONOLULU," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Chun Oakland, for the Committee on Human Services, presented a report (Stand. Com. Rep. No. 2070) recommending that S.B. No. 2301, 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. 2301, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CHILD VISITATION," passed Second Reading and was referred to the Committee on Judiciary and Labor.

Senator Chun Oakland, for the majority of the Committee on Human Services, presented a report (Stand. Com. Rep. No. 2071) recommending that S.B. No. 2450, 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 majority of the Committee was adopted and S.B. No. 2450, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SENTENCING," passed Second Reading and was referred to the Committee on Judiciary and Labor.

Senator Chun Oakland, for the Committee on Human Services, presented a report (Stand. Com. Rep. No. 2072) recommending that S.B. No. 2309, 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. 2309, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LONG-TERM CARE," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Kim, for the Committee on Tourism, presented a report (Stand. Com. Rep. No. 2073) recommending that S.B. No. 490, as amended in S.D. 1, be recommitted to the Committee on Tourism.

On motion by Senator Espero, seconded by Senator Slom and carried, Stand. Com. Rep. No. 2073 was adopted and S.B. No. 490, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII TOURISM AUTHORITY," was recommitted to the Committee on Tourism.

Senator Chun Oakland, for the Committee on Human Services, presented a report (Stand. Com. Rep. No. 2074) recommending that S.B. No. 2310 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. 2310, entitled: "A BILL FOR AN ACT RELATING TO HUMAN SERVICES," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Gabbard, for the Committee on Energy and Environment, presented a report (Stand. Com. Rep. No. 2075) recommending that S.B. No. 2824 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. 2824, entitled: "A BILL FOR AN ACT RELATING TO THE DEPOSIT BEVERAGE CONTAINER PROGRAM," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Gabbard, for the Committee on Energy and Environment, presented a report (Stand. Com. Rep. No. 2076) recommending that S.B. No. 2986 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. 2986, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Gabbard, for the Committee on Energy and Environment, presented a report (Stand. Com. Rep. No. 2077) recommending that S.B. No. 2981, 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. 2981, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO RENEWABLE ENERGY," passed Second Reading and was referred to the Committee on Commerce and Consumer Protection.

Senator Hee, for the Committee on Judiciary and Labor, presented a report (Stand. Com. Rep. No. 2078) recommending that S.B. No. 2061, 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. 2061, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CRIMINAL PROCEDURE," passed Second Reading and was placed on the calendar for Third Reading on Monday, February 13, 2012.

Senator Chun Oakland, for the Committee on Human Services, presented a report (Stand. Com. Rep. No. 2079) recommending that S.B. No. 2088 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. 2088, entitled: "A BILL FOR AN ACT RELATING TO MEDICAID," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Chun Oakland, for the Committee on Human Services, presented a report (Stand. Com. Rep. No. 2080) recommending that S.B. No. 2712 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. 2712, entitled: "A BILL FOR AN ACT RELATING TO MEDICAID," passed Second Reading and was placed on the calendar for Third Reading on Friday, February 10, 2012.

Senator Chun Oakland, for the Committee on Human Services, presented a report (Stand. Com. Rep. No. 2081)

recommending that S.B. No. 2321, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Commerce and Consumer Protection and 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. 2321, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LONG-TERM CARE INSURANCE," passed Second Reading and was referred to the Committee on Commerce and Consumer Protection and the Committee on Ways and Means.

Senator Chun Oakland, for the Committee on Human Services, presented a report (Stand. Com. Rep. No. 2082) recommending that S.B. No. 2318, 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. 2318, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ADULT GUARDIANSHIP AND PROTECTIVE PROCEEDINGS JURISDICTION," passed Second Reading and was referred to the Committee on Judiciary and Labor.

Senators English and Gabbard, for the majority of the Committee on Transportation and International Affairs and the majority of the Committee on Energy and Environment, presented a joint report (Stand. Com. Rep. No. 2083) recommending that S.B. No. 2747, 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 majority of the Committees was adopted and S.B. No. 2747, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTRIC VEHICLE PARKING," passed Second Reading and was referred to the Committee on Ways and Means.

Senator English, for the majority of the Committee on Transportation and International Affairs, presented a report (Stand. Com. Rep. No. 2084) recommending that S.B. No. 2296 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 majority of the Committee was adopted and S.B. No. 2296, entitled: "A BILL FOR AN ACT RELATING TO THE MOTOR VEHICLE INDUSTRY LICENSING ACT," passed Second Reading and was referred to the Committee on Commerce and Consumer Protection.

Senators English and Gabbard, for the Committee on Transportation and International Affairs and the Committee on Energy and Environment, presented a joint report (Stand. Com. Rep. No. 2085) recommending that S.B. No. 2746, 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. 2746, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTRIC VEHICLES," 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. 2086) recommending that S.B. No. 2045 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. 2045, entitled: "A BILL FOR AN ACT RELATING TO TRAFFIC SAFETY," passed Second Reading and was referred to the Committee on Ways and Means.

Senators English, Espero, and Gabbard, for the Committee on Transportation and International Affairs and the Committee on Public Safety, Government Operations, and Military Affairs and the Committee on Energy and Environment, presented a joint report (Stand. Com. Rep. No. 2087) recommending that S.B. No. 3010, 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. 3010, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," 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. 2088) recommending that S.B. No. 2238 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. 2238, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Second Reading and was referred to the Committee on Ways and Means.

Senators Fukunaga and Baker, for the Committee on Economic Development and Technology and the Committee on Commerce and Consumer Protection, presented a joint report (Stand. Com. Rep. No. 2089) recommending that S.B. No. 2739, 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. 2739, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE SMALL BUSINESS REGULATORY REVIEW BOARD," 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. 2090) recommending that S.B. No. 2947, 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. 2947, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Tokuda, for the Committee on Education, presented a report (Stand. Com. Rep. No. 2091) recommending that S.B. No. 2484, 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. 2484, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Tokuda, for the Committee on Education, presented a report (Stand. Com. Rep. No. 2092) recommending that S.B. No. 2773, 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. 2773, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LIBRARIES," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Tokuda, for the Committee on Education, presented a report (Stand. Com. Rep. No. 2093) recommending that S.B. No. 2996 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. 2996, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR KIHEI HIGH SCHOOL," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Tokuda, for the Committee on Education, presented a report (Stand. Com. Rep. No. 2094) recommending that S.B. No. 2525, 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. 2525, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR HAWAII PACIFIC UNIVERSITY," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Tokuda, for the Committee on Education, presented a report (Stand. Com. Rep. No. 2095) recommending that S.B. No. 2952, 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. 2952, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR LE JARDIN ACADEMY," passed Second Reading and was referred to the Committee on Ways and Means.

Senators Tokuda and Hee, for the Committee on Education and the Committee on Judiciary and Labor, presented a joint report (Stand. Com. Rep. No. 2096) recommending that S.B. No. 2541, 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. 2541, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Second Reading and was referred to the Committee on Ways and Means.

Senators Tokuda and Hee, for the Committee on Education and the Committee on Judiciary and Labor, presented a joint report (Stand. Com. Rep. No. 2097) recommending that S.B. No. 2598 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. 2598, entitled: "A BILL FOR AN ACT PROPOSING AMENDMENTS TO THE HAWAII STATE CONSTITUTION RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS," passed Second Reading and was referred to the Committee on Ways and Means.

ORDER OF THE DAY

THIRD READING

S.B. No. 2216, S.D. 1:

Senator Hee moved that S.B. No. 2216, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Shimabukuro.

Senator Slom rose to speak in opposition to the measure as follows:

"I think the intent of the bill is one thing, but the body of the bill is unclear. We had legal advice from the attorney general who wanted some changes made. I don't think those changes have been made; I'll be voting 'no'."

Senator Hee rose to speak in support of the measure as follows:

"This bill is meant to clarify the bill we passed last year on civil unions. It provides for a transition for couples who are in a revocable beneficiary relationship to transition to a civil union seamlessly. It clarifies that period between an RB and a civil union, where an instance may occur where certain benefits would stop. This legislation allows for this transition to occur.

"The Committee on Judiciary adopted the recommendation of the attorney general by deleting the word 'spouse' because were the Legislature to keep it in, we would need to, according to the attorney general, go through every section of the statutes and change all of the sections of the statutes. That was unnecessary, cumbersome, expensive, and probably not in anyone's interest. Thank you."

The motion was put by the Chair and carried, S.B. No. 2216, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TRANSFER OF PROPERTY," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 2 (Gabbard, Slom).

S.B. No. 2518, S.D. 1:

On motion by Senator English, seconded by Senator Espero and carried, S.B. No. 2518, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR AND OTHER VEHICLES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

At this time, the Chair made the following announcement:

"Re-referrals are made in accordance with the 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."

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. 490, S.D. 1	Committee on Tourism, then to the Committee on Ways and Means
S.B. No. 2349	Committee on Education, then jointly to the Committee on Judiciary and Labor and the Committee on Ways and Means

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

"Yesterday, we had a very lively discussion about the TAT and the hotels, and one of the issues, the questions that was

brought up—and I was just given this list—about if there were any general managers that were local or had local ties. According to this list, there’s about 34 general managers and 14 senior managers, and these include people like: Edgar Gum from Marriott Ko Olina; Dean Nakasone from Holiday Inn Waikiki Beachcomber; Douglas Okada from Aston Waikiki Sunset; Ernest Nishizaki from Kyo-Ya Management Co., Ltd.; Elliot Mills from Aulani Disney Resort and Spa; Mike Nitta from Castle Resorts and Hotels; Chris Tatum from Marriott International, Inc.; and Donn Takahashi from Prince Resorts Hawaii.

“So there is a number – I will share it with the members – but just to set the record that there are a number of GMs as well as senior management with local people. Thank you.”

ADJOURNMENT

At 11:43 a.m., on motion by Senator Espero, seconded by Senator Slom and carried, the Senate adjourned until 11:30 a.m., Friday, February 10, 2012.