

## TWENTY-SECOND DAY

**Wednesday, February 20, 2013**

The Senate of the Twenty-Seventh Legislature of the State of Hawai'i, Regular Session of 2013, convened at 11:51 a.m. with the President in the Chair.

The Roll was called showing all Senators present.

The President announced that she had read and approved the Journal of the Twenty-First Day.

At this time, Senator Ruderman introduced the following coaches and members of the Pahoia High School boys basketball team who were on O'ahu to compete in the State Division II tournament: Head Coach Marc Saito; Assistant Coaches Colby Iwashita, Ferd Masulit, John Byrd, Jr., Keenan Komeiji, and Tad Saito; and team members Kevin Lee, Torrell Thomas, Ryan Nacisco, Christian Bartolome, senior Jarrett Kamaka, senior Joe Lefiti, Joel Rosario, Keenan Aganas, senior Randin Napeahi, Toby Saito, and senior Nick Fisher.

**MESSAGE FROM THE GOVERNOR**

The following message from the Governor (Gov. Msg. No. 1101) was read by the Clerk and was placed on file:

Gov. Msg. No. 1101, informing the Senate that on February 14, 2013, the Governor signed into law House Bill No. 26, H.D. 1 as Act 1, entitled: "MAKING APPROPRIATIONS TO PROVIDE FOR THE EXPENSES OF THE LEGISLATURE, THE AUDITOR, THE LEGISLATIVE REFERENCE BUREAU, THE OMBUDSMAN, AND THE ETHICS COMMISSION."

At 11:55 a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:55 a.m.

**HOUSE COMMUNICATIONS**

The following communications from the House (Hse. Com. Nos. 26 to 68) were read by the Clerk and were disposed of as follows:

Hse. Com. No. 26, transmitting H.B. No. 51, which passed Third Reading in the House of Representatives on February 19, 2013, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, H.B. No. 51, entitled: "A BILL FOR AN ACT RELATING TO STATE BONDS," passed First Reading by title and was deferred.

Hse. Com. No. 27, transmitting H.B. No. 389, H.D. 1, which passed Third Reading in the House of Representatives on February 19, 2013, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, H.B. No. 389, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INCOME TAX," passed First Reading by title and was deferred.

Hse. Com. No. 28, transmitting H.B. No. 425, H.D. 1, which passed Third Reading in the House of Representatives on February 19, 2013, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, H.B. No. 425, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO OFFERS IN COMPROMISE," passed First Reading by title and was deferred.

Hse. Com. No. 29, transmitting H.B. No. 431, which passed Third Reading in the House of Representatives on February 19, 2013, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, H.B. No. 431, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS," passed First Reading by title and was deferred.

Hse. Com. No. 30, transmitting H.B. No. 432, which passed Third Reading in the House of Representatives on February 19, 2013, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, H.B. No. 432, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS," passed First Reading by title and was deferred.

Hse. Com. No. 31, transmitting H.B. No. 433, which passed Third Reading in the House of Representatives on February 19, 2013, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, H.B. No. 433, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS," passed First Reading by title and was deferred.

Hse. Com. No. 32, transmitting H.B. No. 434, which passed Third Reading in the House of Representatives on February 19, 2013, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, H.B. No. 434, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS," passed First Reading by title and was deferred.

Hse. Com. No. 33, transmitting H.B. No. 435, H.D. 1, which passed Third Reading in the House of Representatives on February 19, 2013, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, H.B. No. 435, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYEES," passed First Reading by title and was deferred.

Hse. Com. No. 34, transmitting H.B. No. 514, H.D. 2, which passed Third Reading in the House of Representatives on February 19, 2013, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, H.B. No. 514, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC HOUSING," passed First Reading by title and was deferred.

Hse. Com. No. 35, transmitting H.B. No. 518, H.D. 2, which passed Third Reading in the House of Representatives on February 19, 2013, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, H.B. No. 518, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO HOUSING," passed First Reading by title and was deferred.

Hse. Com. No. 36, transmitting H.B. No. 519, H.D. 1, which passed Third Reading in the House of Representatives on February 19, 2013, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, H.B. No. 519, H.D. 1, entitled: "A BILL FOR AN

ACT RELATING TO HOUSING,” passed First Reading by title and was deferred.

Hse. Com. No. 37, transmitting H.B. No. 521, which passed Third Reading in the House of Representatives on February 19, 2013, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, H.B. No. 521, entitled: “A BILL FOR AN ACT RELATING TO AFFORDABLE HOUSING,” passed First Reading by title and was deferred.

Hse. Com. No. 38, transmitting H.B. No. 750, H.D. 2, which passed Third Reading in the House of Representatives on February 19, 2013, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, H.B. No. 750, H.D. 2, entitled: “A BILL FOR AN ACT RELATING TO THE HAWAII ISLAND TECHNOLOGY EXCHANGE INSTITUTE,” passed First Reading by title and was deferred.

Hse. Com. No. 39, transmitting H.B. No. 762, H.D. 2, which passed Third Reading in the House of Representatives on February 19, 2013, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, H.B. No. 762, H.D. 2, entitled: “A BILL FOR AN ACT RELATING TO WASHINGTON PLACE,” passed First Reading by title and was deferred.

Hse. Com. No. 40, transmitting H.B. No. 800, H.D. 1, which passed Third Reading in the House of Representatives on February 19, 2013, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, H.B. No. 800, H.D. 1, entitled: “A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION TO THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM FROM THE ENERGY SECURITY SPECIAL FUND,” passed First Reading by title and was deferred.

Hse. Com. No. 41, transmitting H.B. No. 816, which passed Third Reading in the House of Representatives on February 19, 2013, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, H.B. No. 816, entitled: “A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS,” passed First Reading by title and was deferred.

Hse. Com. No. 42, transmitting H.B. No. 820, which passed Third Reading in the House of Representatives on February 19, 2013, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, H.B. No. 820, entitled: “A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS,” passed First Reading by title and was deferred.

Hse. Com. No. 43, transmitting H.B. No. 822, which passed Third Reading in the House of Representatives on February 19, 2013, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, H.B. No. 822, entitled: “A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS,” passed First Reading by title and was deferred.

Hse. Com. No. 44, transmitting H.B. No. 868, which passed Third Reading in the House of Representatives on February 19, 2013, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, H.B. No. 868, entitled: “A BILL FOR AN ACT RELATING TO ELIMINATING THE ASSET LIMIT ELIGIBILITY REQUIREMENT FOR THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES PROGRAM,” passed First Reading by title and was deferred.

Hse. Com. No. 45, transmitting H.B. No. 879, H.D. 2, which passed Third Reading in the House of Representatives on February 19, 2013, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, H.B. No. 879, H.D. 2, entitled: “A BILL FOR AN ACT RELATING TO THE HOSPITAL SUSTAINABILITY PROGRAM,” passed First Reading by title and was deferred.

Hse. Com. No. 46, transmitting H.B. No. 880, H.D. 2, which passed Third Reading in the House of Representatives on February 19, 2013, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, H.B. No. 880, H.D. 2, entitled: “A BILL FOR AN ACT RELATING TO THE NURSING FACILITY SUSTAINABILITY PROGRAM,” passed First Reading by title and was deferred.

Hse. Com. No. 47, transmitting H.B. No. 897, which passed Third Reading in the House of Representatives on February 19, 2013, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, H.B. No. 897, entitled: “A BILL FOR AN ACT RELATING TO FOOD ESTABLISHMENTS,” passed First Reading by title and was deferred.

Hse. Com. No. 48, transmitting H.B. No. 917, which passed Third Reading in the House of Representatives on February 19, 2013, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, H.B. No. 917, entitled: “A BILL FOR AN ACT RELATING TO WAGES,” passed First Reading by title and was deferred.

Hse. Com. No. 49, transmitting H.B. No. 918, H.D. 1, which passed Third Reading in the House of Representatives on February 19, 2013, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, H.B. No. 918, H.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE EMPLOYMENT AND TRAINING FUND,” passed First Reading by title and was deferred.

Hse. Com. No. 50, transmitting H.B. No. 919, which passed Third Reading in the House of Representatives on February 19, 2013, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, H.B. No. 919, entitled: “A BILL FOR AN ACT RELATING TO STATE EMPLOYMENT,” passed First Reading by title and was deferred.

Hse. Com. No. 51, transmitting H.B. No. 921, which passed Third Reading in the House of Representatives on February 19, 2013, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, H.B. No. 921, entitled: “A BILL FOR AN ACT RELATING TO PROCEEDINGS BEFORE THE LABOR AND INDUSTRIAL RELATIONS APPEALS BOARD,” passed First Reading by title and was deferred.

Hse. Com. No. 52, transmitting H.B. No. 922, H.D. 2, which passed Third Reading in the House of Representatives on February 19, 2013, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, H.B. No. 922, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO MEDICAL BENEFITS UNDER THE WORKERS' COMPENSATION LAW," passed First Reading by title and was deferred.

Hse. Com. No. 53, transmitting H.B. No. 924, H.D. 1, which passed Third Reading in the House of Representatives on February 19, 2013, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, H.B. No. 924, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO COLLECTIVE BARGAINING," passed First Reading by title and was deferred.

Hse. Com. No. 54, transmitting H.B. No. 925, which passed Third Reading in the House of Representatives on February 19, 2013, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, H.B. No. 925, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYMENT SECURITY APPEALS REFEREE'S OFFICE," passed First Reading by title and was deferred.

Hse. Com. No. 55, transmitting H.B. No. 926, which passed Third Reading in the House of Representatives on February 19, 2013, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, H.B. No. 926, entitled: "A BILL FOR AN ACT RELATING TO OCCUPATIONAL SAFETY AND HEALTH HEARINGS," passed First Reading by title and was deferred.

Hse. Com. No. 56, transmitting H.B. No. 927, which passed Third Reading in the House of Representatives on February 19, 2013, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, H.B. No. 927, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYMENT AND TRAINING FUND," passed First Reading by title and was deferred.

Hse. Com. No. 57, transmitting H.B. No. 928, H.D. 1, which passed Third Reading in the House of Representatives on February 19, 2013, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, H.B. No. 928, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CERTAIN FUNDS UNDER THE DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS," passed First Reading by title and was deferred.

Hse. Com. No. 58, transmitting H.B. No. 929, which passed Third Reading in the House of Representatives on February 19, 2013, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, H.B. No. 929, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT AND TRAINING ASSESSMENT," passed First Reading by title and was deferred.

Hse. Com. No. 59, transmitting H.B. No. 964, H.D. 1, which passed Third Reading in the House of Representatives on February 19, 2013, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, H.B. No. 964, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO GENERAL EXCISE TAX EXEMPTION FOR CERTAIN SCIENTIFIC CONTRACTS WITH THE UNITED STATES," passed First Reading by title and was deferred.

Hse. Com. No. 60, transmitting H.B. No. 983, H.D. 1, which passed Third Reading in the House of Representatives on February 19, 2013, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, H.B. No. 983, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," passed First Reading by title and was deferred.

Hse. Com. No. 61, transmitting H.B. No. 1162, which passed Third Reading in the House of Representatives on February 19, 2013, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, H.B. No. 1162, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS," passed First Reading by title and was deferred.

Hse. Com. No. 62, transmitting H.B. No. 1163, which passed Third Reading in the House of Representatives on February 19, 2013, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, H.B. No. 1163, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS," passed First Reading by title and was deferred.

Hse. Com. No. 63, transmitting H.B. No. 1164, which passed Third Reading in the House of Representatives on February 19, 2013, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, H.B. No. 1164, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS," passed First Reading by title and was deferred.

Hse. Com. No. 64, transmitting H.B. No. 1168, which passed Third Reading in the House of Representatives on February 19, 2013, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, H.B. No. 1168, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS," passed First Reading by title and was deferred.

Hse. Com. No. 65, transmitting H.B. No. 1169, which passed Third Reading in the House of Representatives on February 19, 2013, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, H.B. No. 1169, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS," passed First Reading by title and was deferred.

Hse. Com. No. 66, transmitting H.B. No. 1170, which passed Third Reading in the House of Representatives on February 19, 2013, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, H.B. No. 1170, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS," passed First Reading by title and was deferred.

Hse. Com. No. 67, transmitting H.B. No. 1171, which passed Third Reading in the House of Representatives on February 19, 2013, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, H.B. No. 1171, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE

BARGAINING COST ITEMS,” passed First Reading by title and was deferred.

Hse. Com. No. 68, transmitting H.B. No. 1207, H.D. 1, which passed Third Reading in the House of Representatives on February 19, 2013, was placed on file.

On motion by Senator Espero, seconded by Senator Slom and carried, H.B. No. 1207, H.D. 1, entitled: “A BILL FOR AN ACT RELATING TO HUMAN SERVICES,” passed First Reading by title and was deferred.

**SENATE COMMUNICATION**

The following communication (Sen. Com. No. 1) was read by the Clerk and was placed on file:

Sen. Com. No. 1, notice to Governor dated February 20, 2013, transmitting Senate Bill No. 886, which proposes an amendment to the Hawai'i State Constitution.

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

“February 20, 2013

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. 886  
“PROPOSING AN AMENDMENT TO ARTICLE VI, SECTION 3, OF THE HAWAII STATE CONSTITUTION TO INCREASE THE MANDATORY RETIREMENT AGE FOR STATE JUSTICES AND JUDGES.”

Respectfully,

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

**SENATE CONCURRENT RESOLUTIONS**

The following concurrent resolutions (S.C.R. Nos. 36 to 41) were read by the Clerk and were deferred:

S.C.R. No. 36 “SENATE CONCURRENT RESOLUTION REQUESTING THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY TO LEASE A PORTION OF LAND COMPRISING THE KALAELOA COMMUNITY DEVELOPMENT DISTRICT TO THE UNITED STATES COAST GUARD FOR A FACILITY TO BE DESIGNATED AS THE COAST GUARD PACIFIC REGIONAL CENTER AT KALAELOA.”

Offered by: Senator Solomon.

S.C.R. No. 37 “SENATE CONCURRENT RESOLUTION REQUESTING THE PUBLIC UTILITIES COMMISSION TO ESTABLISH A STRANDED COST RECOVERY MECHANISM TO ENCOURAGE THE ACCELERATED RETIREMENT OF ELECTRIC UTILITY FOSSIL FUEL ELECTRIC GENERATION PLANTS.”

Offered by: Senator Solomon.

S.C.R. No. 38 “SENATE CONCURRENT RESOLUTION REQUESTING THE PUBLIC UTILITIES COMMISSION TO ESTABLISH AND ACCELERATE THE

IMPLEMENTATION OF A COST SAVINGS INCENTIVE MECHANISM AS A FINANCIAL INCENTIVE TO MOTIVATE ELECTRIC UTILITIES TO REDUCE ENERGY COSTS.”

Offered by: Senator Solomon.

S.C.R. No. 39 “SENATE CONCURRENT RESOLUTION URGING CONGRESS AND THE PRESIDENT OF THE UNITED STATES TO ENACT LEGISLATION TO ALLOW A STATE TO REQUIRE OUT-OF-STATE VENDORS TO COLLECT THE STATE'S GENERAL EXCISE, SALES, AND USE TAXES ON SALES TO ITS RESIDENTS.”

Offered by: Senator Solomon.

S.C.R. No. 40 “SENATE CONCURRENT RESOLUTION AUTHORIZING THE ISSUANCE OF A PERPETUAL, NON-EXCLUSIVE EASEMENT COVERING A PORTION OF STATE SUBMERGED LANDS AT KAPAHULU, HONOLULU, OAHU, FOR THE MAINTENANCE AND REPAIR OF THE EXISTING SEAWALL AND STEPS.”

Offered by: Senator Solomon.

S.C.R. No. 41 “SENATE CONCURRENT RESOLUTION REQUESTING THE EXTENSION OF THE GOVERNMENT CONTRACTING TASK FORCE TO DEVELOP RECOMMENDATIONS TO ADDRESS ISSUES THAT AFFECT PROCUREMENT FOR GOODS AND SERVICES PURCHASED THROUGH NONPROFIT ORGANIZATIONS, INCLUDING HUMAN SERVICE NONPROFIT ORGANIZATIONS THAT DELIVER PIVOTAL GOODS AND SERVICES TO INDIVIDUALS, FAMILIES, COMMUNITIES, AND OTHER SMALL BUSINESSES.”

Offered by: Senator Ige.

**SENATE RESOLUTIONS**

The following resolutions (S.R. Nos. 17 to 19) were read by the Clerk and were deferred:

S.R. No. 17 “SENATE RESOLUTION REQUESTING THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY TO LEASE A PORTION OF LAND COMPRISING THE KALAELOA COMMUNITY DEVELOPMENT DISTRICT TO THE UNITED STATES COAST GUARD FOR A FACILITY TO BE DESIGNATED AS THE COAST GUARD PACIFIC REGIONAL CENTER AT KALAELOA.”

Offered by: Senator Solomon.

S.R. No. 18 “SENATE RESOLUTION REQUESTING THE PUBLIC UTILITIES COMMISSION TO ESTABLISH A STRANDED COST RECOVERY MECHANISM TO ENCOURAGE THE ACCELERATED RETIREMENT OF ELECTRIC UTILITY FOSSIL FUEL ELECTRIC GENERATION PLANTS.”

Offered by: Senator Solomon.

S.R. No. 19 “SENATE RESOLUTION REQUESTING THE PUBLIC UTILITIES COMMISSION TO ESTABLISH AND ACCELERATE THE IMPLEMENTATION OF A COST SAVINGS INCENTIVE MECHANISM AS A FINANCIAL INCENTIVE TO MOTIVATE ELECTRIC UTILITIES TO REDUCE ENERGY COSTS.”

Offered by: Senator Solomon.

**STANDING COMMITTEE REPORTS**

Senator Galuteria, for the Committee on Tourism and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 454) recommending that S.B. No. 170, as amended in S.D. 1, be recommitted to the Committee on Tourism and Hawaiian Affairs.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 170, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TOURISM," was recommitted to the Committee on Tourism and Hawaiian Affairs.

Senators English and Solomon, for the Committee on Transportation and International Affairs and the majority of the Committee on Water and Land, presented a joint report (Stand. Com. Rep. No. 455) recommending that S.B. No. 1207 pass Second Reading and be placed on the calendar for Third Reading.

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

"Thank you, Madam Chair. I just rise to place a 'no' vote on Stand. Com. Rep. No. 455, S.B. No. 1207. The Department of Transportation does not need a Conservation District Use Permit for making repairs or operations to existing harbors. What this bill would do would exempt them from obtaining a permit for new harbors or expansions outside of existing areas, so please put me down as a 'no.' Thanks."

Senator Ihara requested his vote be cast "Aye with Reservations" and the Chair so ordered.

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. 1207, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," passed Second Reading with Senator Ihara voting "Aye with Reservations," and Senator Thielen voting "No," and was placed on the calendar for Third Reading on Thursday, February 28, 2013.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 456) recommending that S.B. No. 633 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. 633, entitled: "A BILL FOR AN ACT RELATING TO UNLICENSED CONTRACTING ACTIVITIES," passed Second Reading and was placed on the calendar for Third Reading on Thursday, February 28, 2013.

Senator Dela Cruz, for the Committee on Economic Development, Government Operations and Housing, presented a report (Stand. Com. Rep. No. 457) recommending that S.B. No. 123, as amended in S.D. 1, be recommitted to the Committee on Economic Development, Government Operations and Housing.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 123, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ECONOMIC DEVELOPMENT," was recommitted to the Committee on Economic Development, Government Operations and Housing.

Senator Galuteria, for the Committee on Tourism and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 458) recommending that S.B. No. 168, as amended in S.D. 1, be recommitted to the Committee on Tourism and Hawaiian Affairs.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 168, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HAWAIIAN AFFAIRS," was recommitted to the Committee on Tourism and Hawaiian Affairs.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 459) recommending that S.B. No. 120, 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. 120, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC UTILITIES," passed Second Reading and was placed on the calendar for Third Reading on Thursday, February 28, 2013.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 460) recommending that S.B. No. 1066 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. 1066, entitled: "A BILL FOR AN ACT RELATING TO SECURITIES LAW," passed Second Reading and was placed on the calendar for Third Reading on Thursday, February 28, 2013.

Senator Baker, for the majority of the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 461) recommending that S.B. No. 470, 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 majority of the Committee was adopted and S.B. No. 470, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CREDIT CARDS," passed Second Reading and was placed on the calendar for Third Reading on Thursday, February 28, 2013.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 462) recommending that S.B. No. 1020, 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. 1020, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CHARITABLE SOLICITATION," passed Second Reading and was placed on the calendar for Third Reading on Thursday, February 28, 2013.

**ORDER OF THE DAY****HOUSE COMMUNICATIONS****MATTERS DEFERRED FROM THURSDAY, FEBRUARY 14, 2013**

H.C.R. No. 41 (Hse. Com. No. 12):

By unanimous consent, action on H.C.R. No. 41, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE UNITED STATES CONGRESS TO RENAME THE KILAUEA POINT LIGHTHOUSE LOCATED ON THE ISLAND OF KAUAI, HAWAII, IN HONOR OF THE LATE SENATOR DANIEL K. INOUE," was deferred until Friday, March 1, 2013.

H.C.R. No. 42 (Hse. Com. No. 13):

By unanimous consent, action on H.C.R. No. 42, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF TRANSPORTATION TO DESIGNATE, WHEN APPROPRIATE, ROUTE 200 ON THE ISLAND OF HAWAII AS THE DANIEL K. INOUE LEGACY HIGHWAY," was deferred until Friday, March 1, 2013.

At 11:57 a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:07 p.m.

### THIRD READING

#### MATTER DEFERRED FROM TUESDAY, FEBRUARY 19, 2013

S.B. No. 880, S.D. 1:

Senator Hee moved that S.B. No. 880, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Shimabukuro.

Senator Slom then offered the following amendment (Floor Amendment No. 1) to S.B. No. 880, S.D. 1:

S.B. 880 S.D. 1 is amended by amending page 1, lines 4-17 and page 2, lines 1-6 to read as follows:

**"§706- Sentence of imprisonment for sexual assault of a minor under the age of twelve years. Any person who is convicted of an offense under section 707-730(1)(a), 707-730(1)(d), 707-730(1)(e), 707-731, or 707-732(1)(a) against a minor under the age of twelve years, shall be sentenced to a mandatory minimum term of imprisonment of twenty-five years, without the possibility of parole or probation.**

Senator Slom moved that Floor Amendment No. 1 be adopted.

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

"First of all, let me say there was some question as to whether or not a second was necessary here. I'm a little disappointed that none of my 24 colleagues decided that it was important enough to second, but let me go on.

"We had a very lively discussion yesterday about this bill, and particularly about the penalty portion of the bill. I had remarked that there had been another piece of legislation known popularly as 'Jessica's Law,' which has harsher penalties for those that would sexually abuse and harm our young people.

"In attempting to make a floor amendment, we wanted to do several things, but we were constrained by a number of different procedural areas. For example, in the title itself, it prohibited us from doing what we really wanted to do, and that is not having this apply only to children (minors 11 and under). But the age of consent in Hawai'i is 16 and under and we wanted to make that change, but my legal counsel informs me that the title would not allow us to do that. Also, there is nothing in the current bill, S.B. No. 880, that talks about continuous and uninterrupted sexual assault, which is the most egregious of things, and that would be found in HRS §733.6. But again, apparently we're not able to put that in the bill.

"We are, however, able to change the minimum sentence from the current in the bill – 6 years, 8 months – to a minimum of 25 years. Now, some people think that's harsh. As I mentioned yesterday, most of our speeches are about protecting the children. If we don't protect the children, who does? I also mentioned that we seem to spend more time on cruelty to

animals. There was a hearing in Judiciary today talking about cruelty to dogs, dog ears, and apparently 62 people showed up to testify or submitted testimony.

"We seem to have a problem in protecting our children. We seem to be able to make a lot of excuses. One of my colleagues yesterday expressed concerns that if this amendment passes, then those who rape and sexually assault who happen to be mentally ill or developmentally challenged might be caught up in the law, and that's true. But again, who thinks for and who speaks for the victims? It seems that we spend an inordinate amount of time trying to provide excuses, exclusive exemptions, or other special treatment for those that commit the crimes on our children.

"And just today, Madam President, one of the major stories in the *Star-Advertiser* shows a \$5.7 million settlement by the state, which this legislature will have to approve, because of continuous sexual assault of minors at the state Hawaii School for the Deaf and the Blind. How long are we going to let these things go on? Why don't we make this a priority?

"This amendment does not go as far as it should. This amendment does not deprive any law-abiding resident of any rights. This amendment is a step in the right direction for trying to help our minor children.

"The question also has been raised that we want children to be able to testify in some of these hearings, and longer sentences may make it difficult for them to do so because it may involve a family member. I would argue just the opposite: that a shorter sentence would probably discourage children and parents and guardians from putting the child through that testimony. But if they knew we were really serious about this, and they knew that we had some real teeth in this, that would be the deterrent and that would be the opportunity to do this.

"So, members, I ask you humbly and respectfully to consider this floor amendment to make this bill stronger than it is right now; and Madam President, I would request a Roll Call vote. Thank you." (The Chair so ordered.)

Senator Kouchi rose to speak on a point of information as follows:

"Madam President, may I ask the Judiciary and Labor Committee chair if he could compare and contrast the proposed penalties and minimum sentencing requirements in the proposed floor amendment to the language in the current bill to be voted on by the body in light of statements by my colleague from the 9th Senatorial District relating to the content of his proposed floor amendment?"

Senator Hee rose in response as follows:

"In response to the Vice President of the Senate on sentencing comparisons, I had the opportunity to speak to law enforcement yesterday, and also our staff lawyers provided me some information which I'm grateful for.

"Members, for the information requested: murder one, first degree murder – which is 'more than two individuals, judges, police officers, or witnesses' – the sentence is 'life without possibility of parole.' There also is a mandatory court review after 20 years.

"For murder two, second degree murder – which is 'intentionally and knowingly causes the death of another' – the sentence there is 'life with the possibility of parole,' and also a mandatory court review after 20 years. So obviously the mandatory court review acts as a minimum sentence in some respects.

"For manslaughter – which is, 'recklessly causes the death of another' – it's a class A felony with a maximum of 20 years.

Under that circumstance, the paroling authority sets the minimum.

“For first degree sex assault – which is ‘sexual penetration of a minor under 14’ – it’s also a class A felony with a maximum of 20 years, and the paroling authority sets the minimum sentence.

“For first degree assault – which is ‘intentionally or knowingly causes serious bodily injury’ – that’s a class B felony, maximum of 10 years.

“And for attempted murder, it’s the same penalty as if they’d committed the murder.

“So these are the comparisons, insofar as sentencing guidelines is concerned, that already exists on the book, in the laws. Obviously, under our system of jurisprudence, the court has followed the letter of the law. Thank you.”

Senator Chun Oakland rose to speak on a point of information as follows:

“If the person proposing this could explain to me: If a person is 10 years old and commits something in this regard, would they also be subject to this if it became law?”

Senator Slom rose in response as follows:

“Yes, my understanding is the answer is ‘yes,’ but even with mandatory minimums, we still have judicial discretion. Thank you.”

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

“Well, it’s very tempting to yield to the gut feeling to lock people up and throw away the key, particularly if they’ve done something as egregious as what’s contemplated with this measure. I think because it affects all people and it leaves no discretion, I disagree with the interpretation of the maker of the motion that this provides for our judicial discretion.

“There are situations where it may be someone under 18 who commits a crime, who may be developmentally disabled, or have some other kind of mental impairment. I’m not just talking about mental illness, but something else that would affect their judgment and they wouldn’t be acting at the age that their body might be.

“It also doesn’t help with encouraging people to come forward. I think if you talk with practitioners in the sex assault treatment arena, people in the domestic violence arena, they would say that this kind of law – because it does not allow any discretion and it does not allow for more appropriate handling in some of these cases – that it will have actually the opposite effect. And while I think most of us would be very unhappy if one of our family members or a child were the victim of some kind of sex assault, whether it was once or periodic, I think the evidence would tell us that in some situations the ‘lock ‘em up, throw away the key’ is not the appropriate punishment. And for that reason, because there is no discretion, I’ll be voting ‘no’ on this measure. Thank you.”

Senator Slom rose in response as follows:

“I’m just responding, if I may, Madam President, because I thought I did address the idea of developmental disabilities or mental illness. But the point is: in our laws today, we do have a judicial procedure to determine in fact whether a person has the mental capacity.”

Senator Hee rose on a point of order and said:

“The speaker is not responding any question that speaks to what he’s talking about.”

The Chair interjected:

“But he did earlier, so that was it. So, this is his second time.”

Senator Hee continued:

“Nobody asked him to elucidate on previous comments. I mean, if he were asked, then he has every right to stand there and respond to the question.”

The Chair responded:

“I think the point that Senator Chun Oakland had asked the question earlier, he had risen to that, so this is his second time rising.”

Senator Hee thanked the Chair.

The Chair instructed Senator Slom to proceed.

Senator Slom continued:

“That’s my point, Madam President. Thank you.”

At 12:20 p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:22 p.m.

At this time, the Chair made the following announcement:

“Members, I have allowed for discussion on the floor on this motion; however, the motion lacks a second. Therefore, unless there is a second, the matter will be disposed of.”

Senator Ihara noted:

“Madam President, only for the purpose of allowing the floor amendment to be considered, I second the motion, and note that neither Senate Rules nor Mason’s requires a second. Thank you.”

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

“Basically, my interpretation from what I’m hearing is if a 13-year-old is in love with an 11-year-old – 11 years and 11 months, under 12 – then that person could be charged for a crime that could have that person in prison for 25 years (if a 13-year-old is in love with an 11-year-old). So, where there may not be a crime, but there’s just youthful thinking and actions going on and who knows what, and a parent might say, ‘Hey, how dare you! I want you to throw the book at that 13-year-old for committing this act with someone who he thinks is his girlfriend.’ And I think there’s just a lot of gray areas and uncertainty, and I don’t think this is the time to back this amendment. Thank you.”

Senator Nishihara rose to speak on a point of inquiry as follows:

“I have a point of inquiry to the Chair of Judiciary. If the law, as it’s now stated before us – if you have a situation where there are two minor children and one gets one to do a sex act, would that cause this law to have that child held under this law, under the proposed law?”

Senator Hee rose in response as follows:

“Well, a couple things. The way I read the amendment, it says: ‘any person who is convicted of an offense [...] against a minor under the age of twelve years, shall’ – not ‘may’ – ‘be sentenced to a mandatory minimum term of imprisonment of twenty-five years, without the possibility of parole or probation.’ That seems to be consistent with the answer given previously by the introducer of this amendment when asked by the chair of Human Services that if a child of 10 years old – I can’t remember what circumstance – violated someone under

12 would be sentenced to a minimum of 25 years, and the answer by the maker of the amendment was ‘yes.’ Then I didn’t understand the rest, when he said the court would have discretion to impose the minimum; there’s no discretion as I read it in the amendment. Thank you. I hope this responds to the requestor.”

Senator Solomon rose and said:

“Madam President, I just would like the words of the senator from Maui incorporated into the Journal as though they were my own; I support her remarks. Thank you.” (The Chair so ordered, by reference only.)

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

“I rise in opposition to this motion because maybe – unlike some of you, who have not had that experience where such as occurs, which I asked for the point of information to the Chair of Judiciary – I’m aware and have been in a position where such an event did happen in an elementary school. And on the basis of that – basing what the comments by the Judiciary – would have imposed a sentence that certainly would have been harsher than any of us would want upon minor children. So, I’ll be voting in opposition to this. Thank you.”

The motion to adopt Floor Amendment No. 1 was put by the Chair and, Roll Call vote having been requested, failed to carry on the following showing of Ayes and Noes:

Ayes, 1. Noes, 23 (Baker, Chun Oakland, Dela Cruz, English, Espero, Gabbard, Galuteria, Green, Hee, Ige, Ihara, Kahele, Keith-Agaran, Kidani, Kim, Kouchi, Nishihara, Ruderman, Solomon, Taniguchi, Thielen, Tokuda, Wakai). Excused, 1 (Shimabukuro).

Senator Slom requested his vote be cast “Aye with Reservations,” and the Chair so ordered.

The motion was put by the Chair and carried, S.B. No. 880, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO SENTENCE OF IMPRISONMENT FOR SEXUAL ASSAULT OF A MINOR UNDER THE AGE OF TWELVE YEARS,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24; Ayes with Reservations (Slom). Noes, none. Excused, 1 (Shimabukuro).

**RE-REFERRAL OF SENATE BILLS**

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

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| S.B. No.:            | Re-referred to:  |
| S.B. No. 123, S.D. 1 | Jointly to the Committee on Economic Development, Government Operations and Housing and the Committee on Tourism and Hawaiian Affairs  |
| S.B. No. 168, S.D. 1 | Jointly to the Committee on Tourism and Hawaiian Affairs and the Committee on Ways and Means   |
| S.B. No. 170, S.D. 1 | Jointly to the Committee on Tourism and Hawaiian Affairs and the Committee on Ways and Means   |
| S.B. No. 215, S.D. 1 | Committee on Economic Development, Government Operations and Housing, then jointly to the Committee on Education, the Committee on Higher Education, and the Committee on Ways and Means |

S.B. No. 390, S.D. 1	Committee on Human Services, then jointly to the Committee on Ways and Means and the Committee on Education
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S.B. No. 448, S.D. 1	Committee on Technology and the Arts, then jointly to the Committee on Judiciary and Labor and the Committee on Ways and Means
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S.B. No. 894, S.D. 1	Committee on Water and Land, then jointly to the Committee on Judiciary and Labor and the Committee on Ways and Means
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S.B. No. 1340, S.D. 1	Committee on Human Services, then jointly to the Committee on Ways and Means and the Committee on Judiciary and Labor
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**RE-REFERRAL OF A HOUSE BILL**

The Chair re-referred the following House bill that was received:

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| H.B. No.:    | Re-referred to:   |
| H.B. No. 423 | Committee on Commerce and Consumer Protection, then to the Committee on Judiciary and Labor |

**ADJOURNMENT**

At 12:29 p.m., on motion by Senator Espero, seconded by Senator Slom and carried, the Senate adjourned until 11:30 a.m., Thursday, February 28, 2013.