

TWELFTH DAY

Monday, February 8, 2021

The Senate of the Thirty-First Legislature of the State of Hawai'i, Regular Session of 2021, convened at 11:33 a.m. with the President in the Chair.

The Roll was called showing all Senators present, with Senators Chang, Gabbard, Keohokalole, Misalucha, Rhoads, and Shimabukuro present and participating via videoconference.

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

SENATE CONCURRENT RESOLUTION

The following concurrent resolution (S.C.R. No. 24) was read by the Clerk and was referred to committee:

S.C.R. No. 24 "SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO CONVENE A TASK FORCE TO RESOLVE ISSUES RELATING TO THE HANAPEPE CHINESE, FILIPINO, AND PORTUGUESE CEMETERY."

Offered by: Senator Kouchi, by request.

Referred to: Committee on Water and Land, then to the Committee on Ways and Means

SENATE RESOLUTION

The following resolution (S.R. No. 13) was read by the Clerk and was referred to committee:

S.R. No. 13 "SENATE RESOLUTION REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO CONVENE A TASK FORCE TO RESOLVE ISSUES RELATING TO THE HANAPEPE CHINESE, FILIPINO, AND PORTUGUESE CEMETERY."

Offered by: Senator Kouchi, by request.

Referred to: Committee on Water and Land, then to the Committee on Ways and Means

STANDING COMMITTEE REPORTS

Senator Gabbard, for the majority of the Committee on Agriculture and Environment, presented a report (Stand. Com. Rep. No. 23) recommending that S.B. No. 232 pass Second Reading and be referred to the Committee on Judiciary.

On motion by Senator Keohokalole, seconded by Senator Fevella and carried, the report of the majority of the Committee was adopted and S.B. No. 232, entitled: "A BILL FOR AN ACT RELATING TO LITTERING," passed Second Reading and was referred to the Committee on Judiciary.

Senator Gabbard, for the Committee on Agriculture and Environment, presented a report (Stand. Com. Rep. No. 24) recommending that S.B. No. 345, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary and the Committee on Commerce and Consumer Protection.

On motion by Senator Keohokalole, seconded by Senator Fevella and carried, the report of the Committee was adopted and S.B. No. 345, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO COSMETICS," passed Second Reading and was referred to the Committee on Judiciary and the Committee on Commerce and Consumer Protection.

Senator Gabbard, for the Committee on Agriculture and Environment, presented a report (Stand. Com. Rep. No. 25)

recommending that S.B. No. 347, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Senator Keohokalole, seconded by Senator Fevella and carried, the report of the Committee was adopted and S.B. No. 347, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LITTER CONTROL," passed Second Reading and was referred to the Committee on Judiciary.

Senator Gabbard, for the Committee on Agriculture and Environment, presented a report (Stand. Com. Rep. No. 26) recommending that S.B. No. 348, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Commerce and Consumer Protection.

On motion by Senator Keohokalole, seconded by Senator Fevella and carried, the report of the Committee was adopted and S.B. No. 348, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO BOTTLED WATER," passed Second Reading and was referred to the Committee on Commerce and Consumer Protection.

Senator Gabbard, for the Committee on Agriculture and Environment, presented a report (Stand. Com. Rep. No. 27) recommending that S.B. No. 351, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Senator Keohokalole, seconded by Senator Fevella and carried, the report of the Committee was adopted and S.B. No. 351, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ENVIRONMENTAL IMPACT STATEMENTS," passed Second Reading and was referred to the Committee on Judiciary.

Senator Gabbard, for the Committee on Agriculture and Environment, presented a report (Stand. Com. Rep. No. 28) recommending that S.B. No. 502, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary and the Committee on Ways and Means.

On motion by Senator Keohokalole, seconded by Senator Fevella and carried, the report of the Committee was adopted and S.B. No. 502, S.D. 1, entitled: "A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION OF THE STATE OF HAWAII TO GUARANTEE ALL INDIVIDUALS THE RIGHT TO HAVE A CLEAN AND HEALTHY ENVIRONMENT," passed Second Reading and was referred to the Committee on Judiciary and the Committee on Ways and Means.

Senator Gabbard, for the Committee on Agriculture and Environment, presented a report (Stand. Com. Rep. No. 29) recommending that S.B. No. 582, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Senator Keohokalole, seconded by Senator Fevella and carried, the report of the Committee was adopted and S.B. No. 582, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE ENVIRONMENT," passed Second Reading and was referred to the Committee on Judiciary.

Senator Gabbard, for the Committee on Agriculture and Environment, presented a report (Stand. Com. Rep. No. 30) recommending that S.B. No. 777, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Senator Keohokalole, seconded by Senator Fevella and carried, the report of the Committee was adopted and S.B. No. 777, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE CRIMINAL DESTRUCTION OF TREES," passed Second Reading and was referred to the Committee on Judiciary.

Senator Kidani, for the Committee on Education, presented a report (Stand. Com. Rep. No. 31) recommending that S.B. No. 518, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Keohokalole, seconded by Senator Fevella and carried, the report of the Committee was adopted and S.B. No. 807, 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.

Senator Kidani, for the Committee on Education, presented a report (Stand. Com. Rep. No. 32) recommending that S.B. No. 807, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Keohokalole, seconded by Senator Fevella and carried, the report of the Committee was adopted and S.B. No. 812, 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.

Senator Kidani, for the Committee on Education, presented a report (Stand. Com. Rep. No. 33) recommending that S.B. No. 812, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Keohokalole, seconded by Senator Fevella and carried, the report of the Committee was adopted and S.B. No. 812, 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.

Senator San Buenaventura, for the Committee on Human Services, presented a report (Stand. Com. Rep. No. 34) recommending that S.B. No. 409 pass Second Reading and be referred to the Committee on Judiciary.

On motion by Senator Keohokalole, seconded by Senator Fevella and carried, the report of the Committee was adopted and S.B. No. 409, entitled: "A BILL FOR AN ACT RELATING TO SEX TRAFFICKING," passed Second Reading and was referred to the Committee on Judiciary.

Senator Nishihara, for the Committee on Public Safety, Intergovernmental, and Military Affairs, presented a report (Stand. Com. Rep. No. 35) recommending that S.B. No. 1111 pass Second Reading and be referred to the Committee on Judiciary and the Committee on Ways and Means.

On motion by Senator Keohokalole, seconded by Senator Fevella and carried, the report of the Committee was adopted and S.B. No. 1111, entitled: "A BILL FOR AN ACT RELATING TO HOMELAND SECURITY," passed Second Reading and was referred to the Committee on Judiciary and the Committee on Ways and Means.

Senator Nishihara, for the Committee on Public Safety, Intergovernmental, and Military Affairs, presented a report (Stand. Com. Rep. No. 36) recommending that S.B. No. 698, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Senator Keohokalole, seconded by Senator Fevella and carried, the report of the Committee was adopted and S.B. No. 698, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO COMMUNITY MEETINGS," passed Second Reading and was referred to the Committee on Judiciary.

Senator Nishihara, for the Committee on Public Safety, Intergovernmental, and Military Affairs, presented a report (Stand. Com. Rep. No. 37) recommending that S.B. No. 1107, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Keohokalole, seconded by Senator Fevella and carried, the report of the Committee was adopted and S.B. No. 1107, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII EMERGENCY MANAGEMENT AGENCY," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Kidani, for the Committee on Education, presented a report (Stand. Com. Rep. No. 38) recommending that S.B. No. 809, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Keohokalole, seconded by Senator Fevella and carried, the report of the Committee was adopted and S.B. No. 809, 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.

Senator Kidani, for the Committee on Education, presented a report (Stand. Com. Rep. No. 39) recommending that S.B. No. 805, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Commerce and Consumer Protection.

On motion by Senator Keohokalole, seconded by Senator Fevella and carried, the report of the Committee was adopted and S.B. No. 805, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE PRACTICE OF BEHAVIOR ANALYSIS," passed Second Reading and was referred to the Committee on Commerce and Consumer Protection.

Senator Kidani, for the Committee on Education, presented a report (Stand. Com. Rep. No. 40) recommending that S.B. No. 811 pass Second Reading and be referred to the Committee on Judiciary.

On motion by Senator Keohokalole, seconded by Senator Fevella and carried, the report of the Committee was adopted and S.B. No. 811, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF EDUCATION," passed Second Reading and was referred to the Committee on Judiciary.

Senator Kidani, for the Committee on Education, presented a report (Stand. Com. Rep. No. 41) recommending that S.B. No. 806 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Keohokalole, seconded by Senator Fevella and carried, the report of the Committee was adopted and S.B. No. 806, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SCHOOL LANDS," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 42) recommending that S.B. No. 309, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Keohokalole, seconded by Senator Fevella and carried, the report of the Committee was adopted and S.B. No. 309, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PRIVACY," passed Second Reading and was placed on the calendar for Third Reading on Wednesday, February 10, 2021.

Senator Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 43) recommending that S.B. No. 343, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Keohokalole, seconded by Senator Fevella and carried, the report of the Committee was adopted and S.B. No. 343, S.D. 1, entitled: "A BILL FOR AN ACT

RELATING TO SEXUAL ASSAULT OF AN ANIMAL,” passed Second Reading and was placed on the calendar for Third Reading on Wednesday, February 10, 2021.

Senator Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 44) recommending that S.B. No. 399, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Keohokalole, seconded by Senator Fevella and carried, the report of the Committee was adopted and S.B. No. 399, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE ORDERS OF THE CAMPAIGN SPENDING COMMISSION,” passed Second Reading and was placed on the calendar for Third Reading on Wednesday, February 10, 2021.

Senator Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 45) recommending that S.B. No. 400, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Keohokalole, seconded by Senator Fevella and carried, the report of the Committee was adopted and S.B. No. 400, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO CAMPAIGN FINANCE REPORTS,” passed Second Reading and was placed on the calendar for Third Reading on Wednesday, February 10, 2021.

ORDER OF THE DAY

THIRD READING

S.B. No. 294, S.D. 1:

Senator Rhoads moved that S.B. No. 294, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Keohokalole.

Senator Rhoads spoke in support of the measure as follows:

“For those of you or those of the listening audience who are not familiar with civil asset forfeiture, the current procedure is that if the police suspect you of a crime, they can grab your assets and forfeit them, eventually take them away, without you even being charged with a crime. So this bill makes two important changes. It allows for the police to still continue to grab potential criminals’ assets if they believe that there has been part of a criminal enterprise, but it forbids them from forfeiting, the actual final step of selling them and taking the proceeds from them, until someone has been convicted of a felony. The other important change it makes is that, currently, when a forfeiture takes place and the money is gotten, it goes to the police departments. This will change that so that, beyond the administration of the program, any excess funds will go to the general fund. So it doesn’t take away the tool for cracking down on crime by trying to interrupt the financial flows, but it does take away the possibility that you can have your property taken from you without being convicted of a felony. Thank you, Mr. President.”

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

“I really do appreciate the introducer introducing this bill. I just want to point out, according to the 2018 attorney general’s audit of the civil asset forfeiture program, currently, the monies that are being forfeited, that are being acquired, are basically going into some kind of black box because they have really bad accounting principles in place. And the other thing, too, is that according to the auditor, neighbor islands, especially my island, Hawai’i County, disproportionately and illegally have had assets forfeited. Twenty-six percent of the assets that were acquired were not associated with any crime and where the petitions were dismissed, and when they were dismissed, it took

them **five years** before they returned the assets. So even Child Support Enforcement Agency, even people who relied upon those assets, didn’t get any satisfaction until over five years later. So this bill is long overdue, and I was sorry the governor vetoed my bill on the same issue, and I appreciate the Senate and the introducers moving it forward. Thank you.”

The motion was put by the Chair and carried, S.B. No. 294, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO PROPERTY FORFEITURE,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

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. 196, S.D. 1 Committee on Hawaiian Affairs, then jointly to the Committee on Judiciary and the Committee on Ways and Means
- S.B. No. 434 Committee on Transportation, then to the Committee on Judiciary
- S.B. No. 695 Committee on Government Operations, then to the Committee on Judiciary
- S.B. No. 738 Committee on Judiciary
- S.B. No. 756 Committee on Transportation, then to the Committee on Judiciary
- S.B. No. 789 Committee on Government Operations, then jointly to the Committee on Judiciary and the Committee on Ways and Means
- S.B. No. 798 Committee on Government Operations, then to the Committee on Ways and Means
- S.B. No. 800 Committee on Water and Land, then to the Committee on Judiciary
- S.B. No. 853 Jointly to the Committee on Judiciary and the Committee on Ways and Means
- S.B. No. 888 Jointly to the Committee on Agriculture and Environment and the Committee on Energy, Economic Development, and Tourism, then jointly to the Committee on Judiciary and the Committee on Ways and Means
- S.B. No. 889 Jointly to the Committee on Agriculture and Environment and the Committee on Energy, Economic Development, and Tourism, then jointly to the Committee on Judiciary and the Committee on Ways and Means
- S.B. No. 961 Committee on Agriculture and Environment, then to the Committee on Ways and Means
- S.B. No. 1082 Committee on Labor, Culture and the Arts, then jointly to the Committee on Judiciary and the Committee on Ways and Means
- S.B. No. 1084 Committee on Labor, Culture and the Arts, then jointly to the Committee on Judiciary and the Committee on Ways and Means
- S.B. No. 1164 Committee on Water and Land, then to the Committee on Judiciary
- S.B. No. 1279 Committee on Public Safety, Intergovernmental, and Military Affairs, then

- jointly to the Committee on Judiciary and the Committee on Ways and Means
- S.B. No. 1329 Committee on Government Operations, then jointly to the Committee on Judiciary and the Committee on Ways and Means
- S.B. No. 1330 Committee on Public Safety, Intergovernmental, and Military Affairs, then jointly to the Committee on Judiciary and the Committee on Ways and Means
- S.B. No. 1334 Jointly to the Committee on Hawaiian Affairs and the Committee on Housing, then jointly to the Committee on Judiciary and the Committee on Ways and Means
- S.B. No. 1368 Committee on Transportation, then jointly to the Committee on Judiciary and the Committee on Ways and Means
- S.B. No. 1381 Committee on Public Safety, Intergovernmental, and Military Affairs, then jointly to the Committee on Judiciary and the Committee on Ways and Means
- S.B. No. 1396 Jointly to the Committee on Agriculture and Environment and the Committee on Water and Land, then jointly to the Committee on Judiciary and the Committee on Ways and Means
- S.B. No. 1404 Committee on Water and Land, then jointly to the Committee on Judiciary and the Committee on Ways and Means
- S.B. No. 1406 Committee on Labor, Culture and the Arts, then jointly to the Committee on Judiciary and the Committee on Ways and Means
- S.B. No. 1419 Committee on Agriculture and Environment, then to the Committee on Judiciary

At this time, Senator Baker rose to speak on a point of personal privilege as follows:

“Members, we were all gifted with this wonderful red rose, Belgian chocolate rose, my favorite color of rose. It’s from our colleague Kurt Fevella, and I just wanted to thank him for his wonderful thoughts and to say mahalo nui. I know I’m going to enjoy mine, and I suspect all of my colleagues will as well. Mahalo.”

The Chair responded:

“I guess I should say, after Senator Baker’s remarks, that it does wish everyone a blessed Valentine’s week, so that we’re not just in the mood for one day, but would live with that spirit of love and Valentine’s for the whole week, so thank you as well.”

ADJOURNMENT

At 11:40 a.m., on motion by Senator Keohokalole, seconded by Senator Fevella and carried, the Senate adjourned until 11:30 a.m., Tuesday, February 9, 2021.