

TWENTY-THIRD DAY

Wednesday, February 20, 2002

The Senate of the Twenty-First Legislature of the State of Hawaii, Regular Session of 2002, convened at 11:49 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by the Reverend Jim Tweedie, Mililani Presbyterian Church, after which the Roll was called showing all Senators present with the exception of Senators Ige, Menor and Tam who were excused.

The President announced that he had read and approved the Journal of the Twenty-Second Day.

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 180 to 188) were read by the Clerk and were referred to committees:

Gov. Msg. No. 180, submitting for consideration and confirmation to the State Boxing Commission of Hawai'i, the nomination of ALFRED CASTRO, term to expire June 30, 2006, was referred to the Committee on Commerce, Consumer Protection and Housing.

Gov. Msg. No. 181, submitting for consideration and confirmation to the Credit Union Advisory Board, the nomination of MICHAEL E. ASAM, term to expire June 30, 2006, was referred to the Committee on Commerce, Consumer Protection and Housing.

Gov. Msg. No. 182, submitting for consideration and confirmation to the Education Commission of the States, the nominations of KAREN Y. AKA, PH.D., and CARL T. TAKAMURA, terms to expire June 30, 2006, was referred to the Committee on Education.

Gov. Msg. No. 183, submitting for consideration and confirmation to the Environmental Council, the nominations of FAITH CAPLAN, MELISSA DUMARAN and GAIL L.G. KAAIALII, PH.D., terms to expire June 30, 2006, was referred to the Committee on Water, Land, Energy, and Environment.

Gov. Msg. No. 184, submitting for consideration and confirmation to the Hawai'i Performance Partnerships Board, the nominations of: MARY ALICE EVANS, term to expire December 2, 2002; MICHAEL T. FITZGERALD, term to expire June 30, 2004; and AARON S. FUJIOKA, term to expire October 15, 2005, was referred to the Committee on Labor.

Gov. Msg. No. 185, submitting for consideration and confirmation to the Board of Trustees, Hawai'i Public Employees Health Fund, the nomination of TRACY K. CHANG, term to expire June 30, 2004, was referred to the Committee on Labor.

Gov. Msg. No. 186, submitting for consideration and confirmation to the Land Use Commission, the nominations of PRAVIN DESAI, STEVEN LEE MONTGOMERY, PH.D., and RANDALL F. SAKUMOTO, terms to expire June 30, 2006, was referred to the Committee on Water, Land, Energy, and Environment.

Gov. Msg. No. 187, submitting for consideration and confirmation to the Board of Directors, Natural Energy Laboratory of Hawai'i Authority, the nominations of: MARNI HERKES, term to expire June 30, 2003; RICHARD

HENDERSON, term to expire June 30, 2004; and THOMAS P. WHITEMORE, term to expire June 30, 2006, was referred to the Committee on Economic Development and Technology.

Gov. Msg. No. 188, submitting for consideration and confirmation to the Stadium Authority, the nominations of HOWARD Y. IKEDA, GILBERT M. KIMURA and ALVIN S. NARIMATSU, terms to expire June 30, 2006, was referred to the Committee on Economic Development and Technology.

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 21 and 22) were read by the Clerk and were placed on file:

Hse. Com. No. 21, informing the Senate that the Speaker on February 19, 2002, made the following changes to the conferees on the following Senate bills:

S.B. No. 449, S.D. 2 (H.D. 1):

Discharged Representative Yoshinaga as first co-chair.
Appointed Representative Saiki as first co-chair.

S.B. No. 849, S.D. 1 (H.D. 2):

Discharged Representative Yoshinaga as first co-chair.
Appointed Representative Saiki as first co-chair.

S.B. No. 733, S.D. 1 (H.D. 1):

Discharged Representative Yoshinaga as first co-chair.
Appointed Representative Nakasone as second co-chair.

S.B. No. 1058, S.D. 1 (H.D. 1, C.D. 1):

Discharged Representative Yoshinaga as first co-chair and Representative Davis as a manager.
Appointed Representative Suzuki as second co-chair and Representative Rath as a manager.

Hse. Com. No. 22, informing the Senate that the Speaker on February, 19, 2002, made the following changes to the conferees on the following House bills:

H.B. No. 171, H.D. 1 (S.D. 2):

Discharged Representative Yoshinaga as co-chair.
Appointed Representative Nakasone as co-chair.

H.B. No. 562, H.D. 2 (S.D. 2):

Discharged Representative Yoshinaga as co-chair.
Appointed Representative Nakasone as co-chair.

H.B. No. 568, H.D. 2 (S.D. 1):

Discharged Representative Yoshinaga as co-chair.
Appointed Representative Nakasone as co-chair.

H.B. No. 852, H.D. 2 (S.D. 2):

Discharged Representative Yoshinaga as co-chair.
Appointed Representative Nakasone as co-chair.

H.B. No. 1056, H.D. 1 (S.D. 1):

Discharged Representative Yoshinaga as co-chair.

Appointed Representative Nakasone as co-chair.

H.B. No. 1595, H.D. 1 (S.D. 1):

Discharged Representative Yoshinaga as co-chair.
Appointed Representative Nakasone as co-chair.

SENATE CONCURRENT RESOLUTIONS

The following concurrent resolutions (S.C.R. Nos. 42 and 43) were read by the Clerk and were deferred:

Senate Concurrent Resolution

No. 42 "SENATE CONCURRENT RESOLUTION URGING THE DEPARTMENT OF TRANSPORTATION TO ESTABLISH AN INTERGOVERNMENTAL-COMMUNITY TASK FORCE TO PLAN FOR THE DEVELOPMENT OF AN ALTERNATIVE ACCESS ROAD TO KAILUA HIGH SCHOOL IN KAILUA, O'AHU."

Offered by: Senators Hogue, Hemmings.

No. 43 "SENATE CONCURRENT RESOLUTION ENCOURAGING ALL STATE AGENCIES TO DO EVERYTHING POSSIBLE TO FOSTER COMPETITION IN THE INTERISLAND AIR TRANSPORTATION MARKET."

Offered by: Senators Kawamoto, Menor, Tam, Inouye, Hemmings, Fukunaga, Buen.

SENATE RESOLUTIONS

The following resolutions (S.R. Nos. 23 and 24) were read by the Clerk and were deferred:

Senate Resolution

No. 23 "SENATE RESOLUTION URGING THE DEPARTMENT OF TRANSPORTATION TO ESTABLISH AN INTERGOVERNMENTAL-COMMUNITY TASK FORCE TO PLAN FOR THE DEVELOPMENT OF AN ALTERNATIVE ACCESS ROAD TO KAILUA HIGH SCHOOL IN KAILUA, O'AHU."

Offered by: Senators Hogue, Hemmings.

No. 24 "SENATE RESOLUTION ENCOURAGING ALL STATE AGENCIES TO DO EVERYTHING POSSIBLE TO FOSTER COMPETITION IN THE INTERISLAND AIR TRANSPORTATION MARKET."

Offered by: Senators Kawamoto, Menor, Tam, Inouye, Hemmings, Fukunaga, Buen.

STANDING COMMITTEE REPORTS

Senator Sakamoto, for the Committee on Education, presented a report (Stand. Com. Rep. No. 2439) recommending that S.B. No. 2264, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator English, seconded by Senator Hemmings and carried, the report of the Committee was adopted and S.B. No. 2264, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Second Reading and was placed on the calendar for Third Reading on Thursday, February 28, 2002.

Senator Kanno, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 2440) recommending that S.B.

No. 2125 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator English, seconded by Senator Hemmings and carried, the report of the Committee was adopted and S.B. No. 2125, entitled: "A BILL FOR AN ACT RELATING TO EVIDENCE," passed Second Reading and was placed on the calendar for Third Reading on Thursday, February 28, 2002.

Senator Kanno, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 2441) recommending that S.B. No. 2529, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator English, seconded by Senator Hemmings and carried, the report of the Committee was adopted and S.B. No. 2529, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO STALKING," passed Second Reading and was placed on the calendar for Third Reading on Thursday, February 28, 2002.

Senator Kanno, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 2442) recommending that S.B. No. 2625, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator English, seconded by Senator Hemmings and carried, the report of the Committee was adopted and S.B. No. 2625, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE COURTS," passed Second Reading and was placed on the calendar for Third Reading on Thursday, February 28, 2002.

Senator Kanno, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 2443) recommending that S.B. No. 2627, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator English, seconded by Senator Hemmings and carried, the report of the Committee was adopted and S.B. No. 2627, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO JUDICIARY RECORDS," passed Second Reading and was placed on the calendar for Third Reading on Thursday, February 28, 2002.

Senator Kanno, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 2444) recommending that S.B. No. 2629, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator English, seconded by Senator Hemmings and carried, the report of the Committee was adopted and S.B. No. 2629, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIFORM PROBATE CODE," passed Second Reading and was placed on the calendar for Third Reading on Thursday, February 28, 2002.

Senator Kanno, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 2445) recommending that S.B. No. 2632 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator English, seconded by Senator Hemmings and carried, the report of the Committee was adopted and S.B. No. 2632, entitled: "A BILL FOR AN ACT RELATING TO ARRESTS," passed Second Reading and was placed on the calendar for Third Reading on Thursday, February 28, 2002.

Senator Kanno, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 2446) recommending that S.B. No. 2650 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator English, seconded by Senator Hemmings and carried, the report of the Committee was adopted and S.B. No. 2650, entitled: "A BILL FOR AN ACT RELATING TO THE JURISDICTION OF THE COURTS," passed Second Reading and was placed on the calendar for Third Reading on Thursday, February 28, 2002.

Senator Kanno, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 2447) recommending that S.B. No. 2651, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator English, seconded by Senator Hemmings and carried, the report of the Committee was adopted and S.B. No. 2651, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FORFEITURE OF BAIL OR BONDS," passed Second Reading and was placed on the calendar for Third Reading on Thursday, February 28, 2002.

Senator Kanno, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 2448) recommending that S.B. No. 2696, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator English, seconded by Senator Hemmings and carried, the report of the Committee was adopted and S.B. No. 2696, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO IDENTITY," passed Second Reading and was placed on the calendar for Third Reading on Thursday, February 28, 2002.

Senators Buen and Menor, for the Committee on Agriculture and the Committee on Commerce, Consumer Protection, and Housing, presented a joint report (Stand. Com. Rep. No. 2449) recommending that S.B. No. 2518, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator English, seconded by Senator Hemmings and carried, the joint report of the Committees was adopted and S.B. No. 2518, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MEASUREMENT STANDARDS," passed Second Reading and was placed on the calendar for Third Reading on Thursday, February 28, 2002.

Senator Taniguchi, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 2450) recommending that S.B. No. 2824, as amended in S.D. 1, pass Second Reading and be recommitted to the Committee on Ways and Means.

On motion by Senator English, seconded by Senator Hemmings and carried, the report of the Committee was adopted and S.B. No. 2824, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONFORMITY OF THE HAWAII INCOME TAX LAW TO THE INTERNAL REVENUE CODE," passed Second Reading and was recommitted to the Committee on Ways and Means.

Senator Taniguchi, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 2451) recommending that S.B. No. 3011, as amended in S.D. 1, pass Second Reading and be recommitted to the Committee on Ways and Means.

On motion by Senator English, seconded by Senator Hemmings and carried, the report of the Committee was adopted and S.B. No. 3011, S.D. 1, entitled: "A BILL FOR AN

ACT RELATING TO THE EXPENSES OF THE LEGISLATURE," passed Second Reading and was recommitted to the Committee on Ways and Means.

ORDER OF THE DAY

REFERRAL OF HOUSE BILLS

MATTERS DEFERRED FROM TUESDAY, FEBRUARY 19, 2002

The President made the following committee assignments of bills received on Thursday, February 14, 2002; Friday, February 15, 2002; and Tuesday, February 19, 2002:

House Bill	Referred to:
No. 1011, H.D. 1	Committee on Health and Human Services, then to the Committee on Judiciary
No. 1713, H.D. 1	Committee on Commerce, Consumer Protection and Housing
No. 1715, H.D. 1	Committee on Commerce, Consumer Protection and Housing
No. 1764	Committee on Judiciary
No. 1804	Committee on Health and Human Services, then to the Committee on Judiciary
No. 1806	Committee on Tourism and Intergovernmental Affairs, then to the Committee on Judiciary
No. 2049	Committee on Health and Human Services, then to the Committee on Commerce, Consumer Protection and Housing
No. 2282	Committee on Labor, then to the Committee on Judiciary
No. 2310	Committee on Judiciary
No. 2317	Committee on Judiciary
No. 2318	Committee on Judiciary
No. 2432	Committee on Health and Human Services, then to the Committee on Judiciary
No. 2437	Committee on Judiciary
No. 2467	Committee on Health and Human Services, then to the Committee on Commerce, Consumer Protection and Housing
No. 2631	Committee on Agriculture, then to the Committee on Ways and Means

REFERRAL OF HOUSE CONCURRENT RESOLUTION

MATTER DEFERRED FROM TUESDAY, FEBRUARY 19, 2002

The President made the following committee assignment of a House concurrent resolution that was received on Thursday, February 14, 2002:

House
Concurrent
Resolution Referred to:

No. 12 Committee on Health and Human
Services , then to the Committee on Ways and Means

THIRD READING

**MATTER DEFERRED FROM
TUESDAY, FEBRUARY 19, 2002**

S.B. No. 2810, S.D. 1:

Senator Inouye moved that S.B. No. 2810, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Kanno.

Senator Inouye then offered the following amendment (Floor Amendment No. 1) to S.B. No. 2810, S.D. 1:

SECTION 1. Senate Bill No. 2810, S.D. 1, is amended by amending the definition of "landowner" in section 195D-2, Hawaii Revised Statutes, as amended by Section 1 of the bill to read as follows:

“Landowner” means [the owner of the fee simple interest in private land;] an owner of land or any estate or interest in that land when acting with the fee owner’s consent.”

Senator Inouye moved that Floor Amendment No. 1 be adopted, seconded by Senator Kanno.

Senator Inouye then noted:

“Mr. President, as circulated, here is the new language: in Section 1, as circulated, it says, “Landowner” means an owner of land or any estate or interest in that land when acting with the fee owner’s consent.’ For the record, Mr. President, I’d like to read the previous language and it goes as follows: ‘an owner of land or any estate or interest in that land when acting with the landowner’s consent.’

“I believe, Mr. President, that this is the appropriate language.”

The motion to adopt Floor Amendment No. 1 was put by the Chair and carried.

By unanimous consent, S.B. No. 2810, S.D. 2, entitled: “A BILL FOR AN ACT RELATING TO THE DEFINITION OF LANDOWNER FOR SAFE HARBOR AGREEMENTS AND HABITAT CONSERVATION PLANS,” was placed on the calendar for Third Reading on Thursday, February 28, 2002.

RE-REFERRAL OF SENATE BILL

The Chair re-referred the following Senate bill that was introduced:

Senate Bill Referred to:

No. 2102 Jointly to the Committee on Education, the Committee on Transportation, Military Affairs, and Government Operations, the Committee on Judiciary and the Committee on Ways and Means

At this time, Senator Chun rose and said:

“Mr. President, pursuant to Senate Rule 66 which requires the consent of the Senate to reconsider its previous action of

February 14, 2002, I would like to move to reconsider action taken on S.B. No. 2750, S.D. 1, ‘Relating to the Hawaiian Homes Commission Act, 1920, as Amended.’”

There being no objections, the Senate took the following actions on S.B. No. 2750, S.D. 1:

RECONSIDERATION OF ACTIONS TAKEN

S.B. No. 2750, S.D. 1:

Senator Chun moved that the Senate reconsider its actions taken on February 14, 2002, in adopting Stand. Com. Rep. No. 2168 and passing S.B. No. 2750, S.D. 1, on Second Reading, seconded by Senator Taniguchi.

Senator Chun then noted:

“Mr. President, your Committee on Hawaiian Affairs voted to pass S.B. No. 2750 out of Committee unamended, however, the committee report was erroneously filed with a Senate Draft 1 that stated that the bill included technical clarifying amendments. There were no technical clarifying amendments to the bill. So, we would like an opportunity to reflect the correct recommendation of the Committee, which is to pass the bill unamended.”

Senator Taniguchi rose and said:

“Mr. President, your Committee on Ways and Means is currently in possession of this bill, and we support this motion so that the correct version of the bill can be acted on.”

The motion was put by the Chair and carried.

Senator Chun then moved that Stand. Com. Rep. No. 2168 be received and placed on file, seconded by Senator Taniguchi and carried.

By unanimous consent, S.B. No. 2750, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED,” was recommitted to the Committee on Hawaiian Affairs.

At this time, Senator Chun, Chair of the Committee on Hawaiian Affairs, requested that the referral of S.B. No. 2750, S.D. 1, to the Committee on Hawaiian Affairs be waived. The Chair granted the waiver and S.B. No. 2750, S.D. 1, was referred to the Committee on Ways and Means.

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

The Senate reconvened at 11:58 o’clock a.m.

ADJOURNMENT

At 11:59 o’clock a.m., on motion by Senator English, seconded by Senator Hemmings and carried, the Senate adjourned until 11:30 o’clock a.m., Thursday, February 28, 2002.