

SIXTEENTH DAY

Friday, February 13, 2009

The Senate of the Twenty-Fifth Legislature of the State of Hawai'i, Regular Session of 2009, convened at 11:34 a.m. with the Vice President in the Chair.

The Divine Blessing was invoked by the Reverend D. Neal MacPherson, Church of the Crossroads, after which the Roll was called showing all Senators present except for Senators Hanabusa and Taniguchi who were excused.

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

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 405 to 407) were read by the Clerk and were placed on file:

Gov. Msg. No. 405, dated February 9, 2009, transmitting the 2008 Annual Report of the State of Hawaii Overseas Offices prepared by the Department of Business, Economic Development, and Tourism pursuant to Section 201-84, HRS.

Gov. Msg. No. 406, dated February 6, 2009 transmitting the 2008 Annual Report prepared by the Natural Energy Laboratory of Hawaii Authority, pursuant to Chapter 227D, HRS.

Gov. Msg. No. 407, dated February 9, 2009, transmitting the Report of the Governor's Affordable Housing Regulatory Barriers Task Force on the National Call to Action for Affordable Housing Through Regulatory Reform, pursuant Executive Order No. 07-02 on August 22, 2007.

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 7 to 10) were read by the Clerk and were disposed of as follows:

Hse. Com. No. 7, transmitting H.B. No. 293, H.D. 1, which passed Third Reading in the House of Representatives on February 12, 2009, was placed on file.

On motion by Senator Sakamoto, seconded by Senator Hemmings and carried, H.B. No. 293, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PROTECTIVE PROCEEDINGS," passed First Reading by title and was deferred.

Hse. Com. No. 8, transmitting H.B. No. 444, H.D. 1, which passed Third Reading in the House of Representatives on February 12, 2009, was placed on file.

On motion by Senator Sakamoto, seconded by Senator Hemmings and carried, H.B. No. 444, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CIVIL UNIONS," passed First Reading by title and was deferred.

Hse. Com. No. 9, transmitting H.B. No. 615, H.D. 1, which passed Third Reading in the House of Representatives on February 12, 2009, was placed on file.

On motion by Senator Sakamoto, seconded by Senator Hemmings and carried, H.B. No. 615, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HARASSMENT," passed First Reading by title and was deferred.

Hse. Com. No. 10, transmitting H.B. No. 622, H.D. 1, which passed Third Reading in the House of Representatives on February 12, 2009, was placed on file.

On motion by Senator Sakamoto, seconded by Senator Hemmings and carried, H.B. No. 622, H.D. 1, entitled: "A

BILL FOR AN ACT RELATING TO HARASSMENT," passed First Reading by title and was deferred.

SENATE CONCURRENT RESOLUTION

The following concurrent resolution (S.C.R. No. 44) was read by the Clerk and was deferred:

S.C.R. No. 44 "SENATE CONCURRENT RESOLUTION EXPRESSING SUPPORT FOR THE UNITED STATES GEOLOGICAL SURVEY REPORT, "THE CORAL REEF OF SOUTH MOLOKAI, HAWAII: PORTRAIT OF A SEDIMENT THREATENED FRINGING REEF", ENCOURAGING FEDERAL, STATE, AND COMMUNITY COOPERATION TO STEWARD THE SOUTH MOLOKAI REEF FISHERY."

Offered by: Senator Hee.

SENATE RESOLUTION

The following resolution (S.R. No. 26) was read by the Clerk and was deferred:

S.R. No. 26 "SENATE RESOLUTION EXPRESSING SUPPORT FOR THE UNITED STATES GEOLOGICAL SURVEY REPORT, "THE CORAL REEF OF SOUTH MOLOKAI, HAWAII: PORTRAIT OF A SEDIMENT THREATENED FRINGING REEF", ENCOURAGING FEDERAL, STATE, AND COMMUNITY COOPERATION TO STEWARD THE SOUTH MOLOKAI REEF FISHERY."

Offered by: Senator Hee.

STANDING COMMITTEE REPORTS

Senator Gabbard, for the Committee on Energy and Environment, presented a report (Stand. Com. Rep. No. 50) recommending that S.B. No. 1338, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Commerce and Consumer Protection.

On motion by Senator Sakamoto, seconded by Senator Hemmings and carried, the report of the Committee was adopted and S.B. No. 1338, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HOUSEHOLD ENERGY DEMAND," passed Second Reading and was referred to the Committee on Commerce and Consumer Protection.

Senator Sakamoto, for the Committee on Education and Housing, presented a report (Stand. Com. Rep. No. 51) recommending that S.B. No. 663, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Commerce and Consumer Protection.

On motion by Senator Sakamoto, seconded by Senator Hemmings and carried, the report of the Committee was adopted and S.B. No. 663, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DISCRIMINATION IN REAL PROPERTY TRANSACTIONS," passed Second Reading and was referred to the Committee on Commerce and Consumer Protection.

Senator Sakamoto, for the Committee on Education and Housing, presented a report (Stand. Com. Rep. No. 52) recommending that S.B. No. 187, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Sakamoto, seconded by Senator Hemmings and carried, the report of the Committee was adopted and S.B. No. 187, S.D. 1, entitled: "A BILL FOR AN ACT AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS AND MAKING AN

APPROPRIATION FOR AFFORDABLE HOUSING,” passed Second Reading and was referred to the Committee on Ways and Means.

Senator Sakamoto, for the Committee on Education and Housing, presented a report (Stand. Com. Rep. No. 53) recommending that S.B. No. 863, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Sakamoto, seconded by Senator Hemmings and carried, the report of the Committee was adopted and S.B. No. 863, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION,” passed Second Reading and was referred to the Committee on Ways and Means.

Senator Sakamoto, for the majority of the Committee on Education and Housing, presented a report (Stand. Com. Rep. No. 54) recommending that S.B. No. 752, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Sakamoto, seconded by Senator Hemmings and carried, the report of the majority of the Committee was adopted and S.B. No. 752, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO SELF-HELP HOUSING,” passed Second Reading and was referred to the Committee on Ways and Means.

Senator Ige, for the Committee on Health, presented a report (Stand. Com. Rep. No. 55) recommending that S.B. No. 51, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Commerce and Consumer Protection.

On motion by Senator Sakamoto, seconded by Senator Hemmings and carried, the report of the Committee was adopted and S.B. No. 51, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO DENTISTRY,” passed Second Reading and was referred to the Committee on Commerce and Consumer Protection.

Senator English, for the Committee on Transportation, International and Intergovernmental Affairs, presented a report (Stand. Com. Rep. No. 56) recommending that S.B. No. 716, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary and Government Operations.

On motion by Senator Sakamoto, seconded by Senator Hemmings and carried, the report of the Committee was adopted and S.B. No. 716, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO HIGHWAY SAFETY,” passed Second Reading and was referred to the Committee on Judiciary and Government Operations.

Senator Nishihara, for the Committee on Tourism, presented a report (Stand. Com. Rep. No. 57) recommending that S.B. No. 1226, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Sakamoto, seconded by Senator Hemmings and carried, the report of the Committee was adopted and S.B. No. 1226, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE TOURISM SPECIAL FUND,” passed Second Reading and was referred to the Committee on Ways and Means.

Senator Sakamoto, for the Committee on Education and Housing, presented a report (Stand. Com. Rep. No. 58) recommending that S.B. No. 1631 pass Second Reading and be referred to the Committee on Judiciary and Government Operations.

On motion by Senator Sakamoto, seconded by Senator Hemmings and carried, the report of the Committee was adopted and S.B. No. 1631, entitled: “A BILL FOR AN ACT RELATING TO TEACHER LICENSURE,” passed Second Reading and was referred to the Committee on Judiciary and Government Operations.

Senator Sakamoto, for the majority of the Committee on Education and Housing, presented a report (Stand. Com. Rep. No. 59) recommending that S.B. No. 754 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Sakamoto, seconded by Senator Hemmings and carried, the report of the majority of the Committee was adopted and S.B. No. 754, entitled: “A BILL FOR AN ACT RELATING TO AFFORDABLE HOUSING,” passed Second Reading and was referred to the Committee on Ways and Means.

Senators Tokuda and Ige, for the Committee on Higher Education and the Committee on Health, presented a joint report (Stand. Com. Rep. No. 60) recommending that S.B. No. 39 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Sakamoto, seconded by Senator Hemmings and carried, the joint report of the Committees was adopted and S.B. No. 39, entitled: “A BILL FOR AN ACT RELATING TO REPORTS ON THE HAWAII CANCER RESEARCH SPECIAL FUND,” passed Second Reading and was referred to the Committee on Ways and Means.

Senator Takamine, for the Committee on Judiciary and Government Operations, presented a report (Stand. Com. Rep. No. 61) recommending that S.B. No. 111 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Sakamoto, seconded by Senator Hemmings and carried, the report of the Committee was adopted and S.B. No. 111, entitled: “A BILL FOR AN ACT RELATING TO THE PENAL CODE,” passed Second Reading and was referred to the Committee on Ways and Means.

Senator Takamine, for the Committee on Judiciary and Government Operations, presented a report (Stand. Com. Rep. No. 62) recommending that S.B. No. 109, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Sakamoto, seconded by Senator Hemmings and carried, the report of the Committee was adopted and S.B. No. 109, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE INTERSTATE COMPACT FOR JUVENILES,” passed Second Reading and was referred to the Committee on Ways and Means.

Senator Nishihara, for the Committee on Tourism, presented a report (Stand. Com. Rep. No. 63) recommending that S.B. No. 264 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Sakamoto, seconded by Senator Hemmings and carried, the report of the Committee was adopted and S.B. No. 264, entitled: “A BILL FOR AN ACT RELATING TO TOURISM,” passed Second Reading and was placed on the calendar for Third Reading on Tuesday, February 17, 2009.

Senator Gabbard, for the Committee on Energy and Environment, presented a report (Stand. Com. Rep. No. 64) recommending that S.B. No. 1381, as amended in S.D. 1, be recommitted to the Committee on Energy and Environment.

On motion by Senator Sakamoto, seconded by Senator Hemmings and carried, the report of the Committee was

adopted and S.B. No. 1381, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE ENVIRONMENT," was recommitted to the Committee on Energy and Environment.

ORDER OF THE DAY

THIRD READING

S.B. No. 711, S.D. 1:

On motion by Senator English, seconded by Senator Espero and carried, S.B. No. 711, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," passed Third Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, none. Excused, 6 (Gabbard, Hanabusa, Nishihara, Slom, Takamine, Taniguchi).

S.B. No. 718, S.D. 1:

Senator English moved that S.B. No. 718, S.D. 1 pass Third Reading, seconded by Senator Gabbard.

Senator Hemmings rose to speak in opposition to the measure and said:

"I certainly recognize the good intent of the author of this bill, and under other circumstances both statewide and nationally, I would wholeheartedly support this initiative. I think it is well worth the time and consideration. But right now, our nation's under tremendous economic peril, and I don't recall in my lifetime—our lifetime, Mr. President—having a state that is facing more daunting problems regarding the economy. Besides the existing layoffs, there are many, many businesses that are on the cusp of collapsing. And this is not only going to affect businesses, but (for instance) affordable housing and other projects that help the truly needy.

"Anything we do during this legislative session to add to the regulations, which costs money and mandates, will ultimately burden the consumers and affect the marketplace. And since margins are so tight with the economy here, we may be really killing projects. This may seem innocuous, but if you calculate the impact of all of the other things that developers have to do to make housing available, affordable or otherwise, it adds up. And I would suggest that for the next session or two that we're going to really have to do everything we can to open up the marketplace to investment and risk-taking and affordability. And though I support the outcome of this initiative, I believe that we may be doing more harm than good. So, I will be voting 'no.'"

The motion was put by the Chair and carried, S.B. No. 718, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," passed Third Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, 1 (Hemmings). Excused, 5 (Hanabusa, Nishihara, Slom, Takamine, Taniguchi).

S.B. No. 153, S.D. 1:

On motion by Senator Hee, seconded by Senator English and carried, S.B. No. 153, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC ACCESS," passed Third Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, 1 (Hemmings). Excused, 5 (Hanabusa, Nishihara, Slom, Takamine, Taniguchi).

S.B. No. 468, S.D. 1:

On motion by Senator Hee, seconded by Senator English and carried, S.B. No. 468, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO COASTAL ZONE MANAGEMENT," passed Third Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, 1 (Hemmings). Excused, 5 (Hanabusa, Nishihara, Slom, Takamine, Taniguchi).

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

On motion by Senator Hee, seconded by Senator Tokuda and carried, S.B. No. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO OPIHI," passed Third Reading on the following showing of Ayes and Noes:

Ayes, 18. Noes, 2 (English, Tsutsui). Excused, 5 (Hanabusa, Nishihara, Slom, Takamine, Taniguchi).

S.B. No. 64:

On motion by Senator Bunda, seconded by Senator Hee and carried, S.B. No. 64, entitled: "A BILL FOR AN ACT RELATING TO THE LABOR AND INDUSTRIAL RELATIONS APPEALS BOARD," passed Third Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, none. Excused, 5 (Hanabusa, Nishihara, Slom, Takamine, Taniguchi).

S.B. No. 119:

On motion by Senator Bunda, seconded by Senator Gabbard and carried, S.B. No. 119, entitled: "A BILL FOR AN ACT RELATING TO THE UNIFORM FOREIGN-COUNTRY MONEY JUDGMENTS RECOGNITION ACT," passed Third Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, none. Excused, 5 (Hanabusa, Nishihara, Slom, Takamine, Taniguchi).

S.B. No. 92:

On motion by Senator Bunda, seconded by Senator Gabbard and carried, S.B. No. 92, entitled: "A BILL FOR AN ACT RELATING TO STATUTORY REVISION: AMENDING OR REPEALING VARIOUS PROVISIONS OF THE HAWAII REVISED STATUTES AND THE SESSION LAWS OF HAWAII FOR THE PURPOSE OF CORRECTING ERRORS AND REFERENCES, CLARIFYING LANGUAGE, AND DELETING OBSOLETE OR UNNECESSARY PROVISIONS," passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, none. Excused, 4 (Hanabusa, Nishihara, Takamine, Taniguchi).

REFERRAL OF SENATE CONCURRENT RESOLUTIONS

The President made the following committee assignments of concurrent resolution that were offered on Tuesday, February 10, 2009 and Wednesday, February 11, 2009:

S.C.R. No.	Referred to:
S.C.R. No. 40	Jointly to the Committee on Water, Land, Agriculture and Hawaiian Affairs and the Committee on Judiciary and Government Operations
S.C.R. No. 41	Jointly to the Committee on Higher Education and the Committee on Education and Housing
S.C.R. No. 42	Committee on Economic Development and Technology

REFERRAL OF SENATE RESOLUTIONS

The President made the following committee assignments of resolutions that were offered on Thursday, February 12, 2009:

S.R. No.	Referred to:
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- S.R. No. 24 Jointly to the Committee on Higher
Education and the Committee on
Education and Housing
- S.R. No. 25 Jointly to the Committee on Water, Land,
Agriculture and Hawaiian Affairs and the
Committee on Judiciary and Government
Operations

ADJOURNMENT

At 11:50 a.m., on motion by Senator Sakamoto, seconded by
Senator Slom and carried, the Senate adjourned until
11:30 a.m., Tuesday, February 17, 2009.