

SECOND DAY

Thursday, January 20, 2011

The Senate of the Twenty-Sixth Legislature of the State of Hawai'i, Regular Session of 2011, convened at 11:34 a.m. with the President in the Chair.

The Roll was called showing all Senators present.

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

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 1 to 3) were read by the Clerk and were disposed of as follows:

Hse. Com. No. 1, transmitting H.R. No. 4, entitled: "HOUSE RESOLUTION SENDING MESSAGES THAT THE HOUSE OF REPRESENTATIVES OF THE TWENTY-SIXTH LEGISLATURE HAS ASSEMBLED AND IS READY TO TRANSACT BUSINESS" which was adopted by the House of Representatives on January 19, 2011, was placed on file.

Hse. Com. No. 2, transmitting H.C.R. No. 1, which was adopted by the House of Representatives on January 19, 2011, was placed on file.

On motion by Senator Espero seconded by Senator Slom and carried, H.C.R. No. 1, entitled: "HOUSE CONCURRENT RESOLUTION RELATING TO RECESS DAYS FOR THE REGULAR SESSION OF 2011," was adopted.

Hse. Com. No. 3, transmitting H.C.R. No. 2, which was adopted by the House of Representatives on January 19, 2011, was placed on file.

At 11:36 a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:39 a.m.

On motion by Senator Espero seconded by Senator Slom and carried, H.C.R. No. 2, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE GOVERNOR TO ADDRESS THE LEGISLATURE ASSEMBLED IN JOINT SESSION," was adopted.

INTRODUCTION OF SENATE BILLS

On motion by Senator Espero, seconded by Senator Slom and carried, the following bills passed First Reading by title and were deferred:

S.B. No. 23 "A BILL FOR AN ACT RELATING TO NATIVE HAWAIIANS."

Introduced by: Senator Galuteria, by request.

S.B. No. 24 "A BILL FOR AN ACT RELATING TO TRESPASS."

Introduced by: Senator Dela Cruz.

S.B. No. 25 "A BILL FOR AN ACT RELATING TO LANDOWNER LIABILITY."

Introduced by: Senator Dela Cruz.

S.B. No. 26 "A BILL FOR AN ACT RELATING TO ADVANCED PRACTICE REGISTERED NURSE FEES."

Introduced by: Senators Baker, Green, Ige, Taniguchi.

S.B. No. 27 "A BILL FOR AN ACT RELATING TO LONG-TERM CARE INSURANCE."

Introduced by: Senator Baker.

S.B. No. 28 "A BILL FOR AN ACT RELATING TO CONTROL OPERATORS."

Introduced by: Senator Baker, by request.

S.B. No. 29 "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE RENTAL."

Introduced by: Senator Baker.

S.B. No. 30 "A BILL FOR AN ACT RELATING TO ABANDONED VEHICLES."

Introduced by: Senator Baker.

S.B. No. 31 "A BILL FOR AN ACT RELATING TO CONSERVATION DISTRICTS."

Introduced by: Senator Baker, by request.

S.B. No. 32 "A BILL FOR AN ACT RELATING TO HEALTH."

Introduced by: Senator Baker, by request.

S.B. No. 33 "A BILL FOR AN ACT RELATING TO SPECIAL FUNDS."

Introduced by: Senator Baker, by request.

S.B. No. 34 "A BILL FOR AN ACT RELATING TO TAX APPEALS."

Introduced by: Senator Baker, by request.

S.B. No. 35 "A BILL FOR AN ACT RELATING TO THE MOTOR VEHICLE INDUSTRY LICENSING ACT."

Introduced by: Senators Baker, Chun Oakland, Espero, Fukunaga, Green, Ihara, Nishihara, Taniguchi.

S.B. No. 36 "A BILL FOR AN ACT RELATING TO HEALTH."

Introduced by: Senators Baker, Chun Oakland, Green, Espero, Fukunaga, Nishihara.

S.B. No. 37 "A BILL FOR AN ACT RELATING TO NURSES."

Introduced by: Senators Baker, Chun Oakland, Espero, Fukunaga, Green, Kidani, Nishihara, Taniguchi.

S.B. No. 38 "A BILL FOR AN ACT RELATING TO ADVANCED PRACTICE REGISTERED NURSES."

Introduced by: Senators Baker, Chun Oakland, Espero, Fukunaga, Kidani, Nishihara, Green, Taniguchi.

S.B. No. 39 "A BILL FOR AN ACT RELATING TO PLANNED COMMUNITY ASSOCIATIONS."

Introduced by: Senators Baker, Chun Oakland, Espero, Fukunaga, Green, Ihara, Nishihara, Taniguchi.

S.B. No. 40 "A BILL FOR AN ACT RELATING TO PSEUDOEPHEDRINE."

Introduced by:	Senators Baker, Chun Oakland, Fukunaga, Green, Espero, Ihara, Nishihara.	Introduced by:	Senators Espero, Fukunaga, Galuteria, Kidani, Slom.
S.B. No. 41	“A BILL FOR AN ACT RELATING TO THE HAWAII PREPAID HEALTH CARE ACT.”	S.B. No. 54	“A BILL FOR AN ACT RELATING TO STATUTES OF LIMITATIONS.”
Introduced by:	Senators Baker, Chun Oakland, Fukunaga, Green, Espero, Ihara, Nishihara, Taniguchi.	Introduced by:	Senators Espero, Green, Galuteria, Ige, Kidani, Ryan, Slom.
S.B. No. 42	“A BILL FOR AN ACT RELATING TO OCEAN SAFETY.”	S.B. No. 55	“A BILL FOR AN ACT RELATING TO BILL OF RIGHTS FOR VICTIMS.”
Introduced by:	Senators Baker, Dela Cruz, Fukunaga, Ryan, Solomon, Tokuda.	Introduced by:	Senators Espero, Green, Galuteria, Ige, Kidani, Ryan, Slom.
S.B. No. 43	“A BILL FOR AN ACT RELATING TO PUBLIC SAFETY.”	S.B. No. 56	“A BILL FOR AN ACT RELATING TO INTOXICATING LIQUOR.”
Introduced by:	Senators Espero, Dela Cruz, Galuteria, Ige, Kidani.	Introduced by:	Senators Espero, Gabbard, Ihara, Kidani.
S.B. No. 44	“A BILL FOR AN ACT RELATING TO PUBLIC SAFETY.”	S.B. No. 57	“A BILL FOR AN ACT RELATING TO IOLANI PALACE.”
Introduced by:	Senators Espero, Dela Cruz, Galuteria, Ige, Kidani, Slom.	Introduced by:	Senators Espero, Gabbard, Slom.
S.B. No. 45	“A BILL FOR AN ACT RELATING TO PUBLIC SAFETY.”	S.B. No. 58	“A BILL FOR AN ACT RELATING TO MEDICAL CANNABIS.”
Introduced by:	Senators Espero, Dela Cruz, Galuteria, Ige, Kidani.	Introduced by:	Senators Espero, Dela Cruz, Kidani, Ryan, Slom.
S.B. No. 46	“A BILL FOR AN ACT RELATING TO CORRECTIONS.”	S.B. No. 59	“A BILL FOR AN ACT RELATING TO PASSENGER SAFETY FOR PICKUP TRUCKS.”
Introduced by:	Senators Espero, Galuteria, Ige, Ihara, Kidani, Ryan.	Introduced by:	Senators Espero, Gabbard, Galuteria.
S.B. No. 47	“A BILL FOR AN ACT RELATING TO CORRECTIONS.”	S.B. No. 60	“A BILL FOR AN ACT RELATING TO HIGHWAY SAFETY.”
Introduced by:	Senators Espero, Galuteria, Ige, Ihara, Kidani, Ryan.	Introduced by:	Senators Espero, Gabbard, Galuteria.
S.B. No. 48	“A BILL FOR AN ACT RELATING TO CORRECTIONS.”	S.B. No. 61	“A BILL FOR AN ACT RELATING TO STATEWIDE TRAFFIC CODE.”
Introduced by:	Senators Espero, Galuteria, Ige, Ihara, Kidani, Ryan.	Introduced by:	Senators Espero, English, Gabbard, Galuteria.
S.B. No. 49	“A BILL FOR AN ACT RELATING TO CORRECTIONAL FACILITIES.”	SENATE RESOLUTION	
Introduced by:	Senators Espero, Galuteria, Ige, Ihara, Kidani, Ryan.	The following resolution (S.R. No. 2) was read by the Clerk and was disposed of as follows:	
S.B. No. 50	“A BILL FOR AN ACT RELATING TO SHERIFFS.”	S.R. No. 2	“SENATE RESOLUTION ADOPTING THE RULES OF THE SENATE OF THE TWENTY-SIXTH LEGISLATURE.”
Introduced by:	Senators Espero, Kidani, Ryan.	Offered by:	Senators Galuteria, Slom.
S.B. No. 51	“A BILL FOR AN ACT RELATING TO OBSCENITY.”	Senator Slom rose to speak on the measure and said:	
Introduced by:	Senators Espero, Fukunaga, Galuteria, Kidani, Slom.	“Thank you, Mr. President; I rise to discuss the omission of our former Rule 8, which had to do with invocation. Former Rule 8 said that each day’s sitting of the Senate shall open with an invocation. We traditionally have done that. I noticed that we did not do that today, although we did have an invocation yesterday on the first day of the session. I was part of a three-member Senate committee during the interim to examine possible guidelines for invocation. We had input from community sources, we had input from two deputy attorneys general, and I thought that we had come away from that with the idea that, in fact, we would have some voluntary guidelines and that possibly even the invocation would be prior to the official start of the daily session and would not appear on the Order of the Day, but in fact, would still be a voluntary part of this legislative session, as it has been traditionally, for many decades.	
S.B. No. 52	“A BILL FOR AN ACT RELATING TO REGISTRATION OF SEX OFFENDERS.”		
Introduced by:	Senators Espero, Galuteria, Green, Ige, Kidani, Ryan.		
S.B. No. 53	“A BILL FOR AN ACT RELATING TO WEAPONS.”		

“We know, Mr. President, that the Supreme Court has ruled definitively in the past that the use of invocations by legislative bodies is legal, constitutional, and appropriate. We took note that yesterday Mr. Danny Kaleikini gave us the invocation where the deity’s name was invoked. We had wonderful entertainment by the chorus from Kamehameha Schools, and their songs and their lyrics invoked the deity. I think that we have had no problem in the past with stressing that our invocation is both traditional, customary, but it’s also voluntary. We’ve had members of the Senate body that have chosen not to be present on the Senate floor when the invocation was given; and that, of course, is their right. We’ve also had the opportunity for all senators to give an invocation of their choice or to select a staff member or to invite someone from the community.

“I don’t know of any problems that we have encountered, save two. One from an organization in the community that nationally has had as its, I guess, overall objective, to get rid of all prayer and invocation in all public bodies. They threatened the Honolulu City Council and they were successful; the city council backed away from them. Then we have an individual that represents an organization, and he has for many years taken up the cause of not allowing us to have an invocation. But from the general public, Mr. President, I think that we have very strong support. I think that many people were very gratified yesterday at the presentations that were made here and that they feel that something would be missing, and that the Senate must stand for something and not back away when there are challenges by individuals or by organizations, as I say, that make it their point nationally to have this as an objective.

“I think that it’s important that we stress the need that, as smart as we may be, as intelligent as we may be, that we can still call on someone higher to help us and guide us. And again I stress that it’s fine that this is voluntary. I’m also in full concurrence that we don’t have to have this as part of the Order of the Day, if that’s what the colleagues and members want, but I think for us to take this out of our rules and also to, by omission, tell the community that we no longer think that this is important, I think that this is a mistake. Thank you, Mr. President.”

Senator Galuteria rose in response and said:

“Thank you, Mr. President; we appreciate the comments of our colleague from Hawai’i Kai. For the purpose of clarity, indeed the Senate Rules as proposed do not include a mandate for daily invocations. These proposed Senate Rules are not, and have never been all encompassing of every instance of legislation procedure possible; therefore, the rule allows us, as a body, to use our discretion and flexibility to conduct invocations when we so determine. The Senate will continue to explore the issue and develop a policy for the proper implementation of invocations that is constitutionally sound. Thank you, Mr. President.”

Senator Slom rose in rebuttal and said:

“Thank you, Mr. President; just a brief rebuttal. I would say that, first of all, the constitutionality issue is not an issue here; that’s been resolved previously. Secondly, I certainly think that it would be appropriate if you want to use the word mandate, and you know that I don’t like mandates, and I don’t like bans, if we would adopt the previous Rule 8 and amend the wording to say each day’s sitting of the Senate may open with an invocation. I think that still would get the message across, it still would allow us the flexibility, but I think that by taking it out of the rules completely and saying that we’re going to look at it at sometime later, I think that this gives the wrong message to the public, that in fact we are unwilling to stand by some principles. So, if you did that, if you reintroduced that as a rule

with the change in word from ‘shall’ to ‘may’ I think that still would accomplish what you want, but be flexible. Thank you.”

On motion by Senator Espero, seconded by Senator Slom and carried, S.R. No. 2 was adopted.

At this time, the Chair made the following announcement:

“Referrals are made in accordance with the referrals that will be listed on a supplemental Order of the Day and distributed to your offices later today.”

REFERRAL OF SENATE BILLS

The President made the following committee assignments of bills introduced on Wednesday, January 19, 2011:

S.B. No.:	Referred to:
S.B. No. 1	Jointly to the Committee on Hawaiian Affairs and the Committee on Water, Land, and Housing, then jointly to the Committee on Judiciary and Labor and the Committee on Ways and Means
S.B. No. 2	Committee on Water, Land, and Housing, then to the Committee on Ways and Means
S.B. No. 3	Jointly to the Committee on Economic Development and Technology and the Committee on Judiciary and Labor, then to the Committee on Ways and Means
S.B. No. 4	Committee on Judiciary and Labor
S.B. No. 5	Committee on Judiciary and Labor, then to the Committee on Ways and Means
S.B. No. 6	Committee on Agriculture, then to the Committee on Water, Land, and Housing
S.B. No. 7	Committee on Judiciary and Labor
S.B. No. 8	Committee on Education, then to the Committee on Ways and Means
S.B. No. 9	Committee on Public Safety, Government Operations, and Military Affairs
S.B. No. 10	Committee on Public Safety, Government Operations, and Military Affairs, then to the Committee on Ways and Means
S.B. No. 11	Committee on Public Safety, Government Operations, and Military Affairs, then to the Committee on Ways and Means
S.B. No. 12	Jointly to the Committee on Water, Land, and Housing and the Committee on Public Safety, Government Operations, and Military Affairs, then to the Committee on Ways and Means
S.B. No. 13	Committee on Judiciary and Labor
S.B. No. 14	Committee on Agriculture, then to the Committee on Ways and Means
S.B. No. 15	Jointly to the Committee on Public Safety, Government Operations, and Military Affairs and the Committee on Water, Land, and Housing, then to the Committee on Ways and Means

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- S.B. No. 16 Committee on Water, Land, and Housing,
then to the Committee on Ways and
Means
- S.B. No. 17 Jointly to the Committee on Health and
the Committee on Energy and
Environment, then to the Committee on
Ways and Means
- S.B. No. 18 Jointly to the Committee on Public
Safety, Government Operations, and
Military Affairs and the Committee on
Transportation and International Affairs,
then to the Committee on Ways and
Means
- S.B. No. 19 Committee on Ways and Means
- S.B. No. 20 Committee on Ways and Means
- S.B. No. 21 Jointly to the Committee on Health and
the Committee on Education, then to the
Committee on Ways and Means
- S.B. No. 22 Jointly to the Committee on Health and
the Committee on Economic
Development and Technology, then to
the Committee on Ways and Means

ADJOURNMENT

At 11:47 a.m., on motion by Senator Espero, seconded by Senator Slom and carried, the Senate adjourned until 11:30 a.m., Friday, January 21, 2011.