

SEVENTH DAY

Monday, January 31, 2011

The Senate of the Twenty-Sixth Legislature of the State of Hawai'i, Regular Session of 2011, convened at 11:35 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 Sixth Day.

DEPARTMENTAL COMMUNICATIONS

The following communications (Dept. Com. Nos. 11 to 42) were read by the Clerk and were placed on file:

Dept. Com. No. 11, from the University of Hawai'i dated December 13, 2010, transmitting the Annual Report on the Mauna Kea Lands pursuant to Section 304A-1905, HRS.

Dept. Com. No. 12, from the University of Hawai'i dated December 13, 2010, transmitting the Annual Report on University of Hawai'i Risk Management Special Fund pursuant to Section 304A-2151, HRS.

Dept. Com. No. 13, from the University of Hawai'i dated December 13, 2010, transmitting the Annual Report on University of Hawai'i Tuition & Fees Special Fund Expenditures for the Purpose of Generating Private Donations pursuant to Section 304A-2153, HRS.

Dept. Com. No. 14, from the University of Hawai'i dated December 13, 2010, transmitting the Annual Report on the Community College Conference Center Revolving Fund pursuant to Section 304A-2273.

Dept. Com. No. 15, from the University of Hawai'i dated December 13, 2010, transmitting the Annual Report on University Revenue Bonds Issued FY2010 pursuant to Section 304A-2689, HRS.

Dept. Com. No. 16, from the University of Hawai'i dated December 13, 2010, transmitting the Annual Report on the University of Hawai'i's Continued Participation in the Western Interstate Commission on Higher Education pursuant to Section 304A-3205, HRS.

Dept. Com. No. 17, from the University of Hawai'i dated December 13, 2010, transmitting the Report on Uses of University of Hawai'i Special Funds to Finance Projects Where the Method of Financing is Designated to be by University of Hawai'i Revenue Bonds pursuant to Act 162, Section 84, SLH 2009.

Dept. Com. No. 18, from the University of Hawai'i dated December 13, 2010, transmitting the Report on Amounts Budgeted for Personnel Costs pursuant to Act 162, Section 160, SLH 2009.

Dept. Com. No. 19, from the University of Hawai'i dated December 13, 2010, transmitting the Report on Status of Respective Purchases and Use of Locally-Produced Produce or other Hawai'i Agricultural Products pursuant to H.C.R. No. 289 (2010).

Dept. Com. No. 20, from the University of Hawai'i dated December 13, 2010, transmitting the Report on Issuance of Additional Revenue Bonds Authorized by Section 2, Including a Detailed Listing and Description of all Projects to be Funded pursuant to Act 94, Section 3, SLH 2009.

Dept. Com. No. 21, from the University of Hawai'i dated December 17, 2010, transmitting the Annual Report on

Operations of the Hawai'i Research Center for Future Studies pursuant to Section 304A-3253, HRS.

Dept. Com. No. 22, from the University of Hawai'i dated December 17, 2010, transmitting the Report by the University of Hawai'i at Manoa on the Economic Value of Expanding Workforce Development Capacity and STEM Initiatives pursuant to H.C.R. No. 297, (2010).

Dept. Com. No. 23, from the University of Hawai'i dated December 20, 2010, transmitting the Report on the University of Hawaii Procurement Procedures pursuant to Act 82, SLH 2010.

Dept. Com. No. 24, from the University of Hawai'i dated December 17, 2010, transmitting the Annual Report on University of Hawai'i Uncollectible Account pursuant to Section 40-82, HRS.

Dept. Com. No. 25, from the University of Hawai'i dated December 17, 2010, transmitting the Annual Report from the Medical Education Council pursuant to Section 304A-1704, HRS.

Dept. Com. No. 26, from the State Auditor dated December 28, 2010, transmitting a report, "Management and Financial Audit of Department of Taxation Contracts," (Report No. 10-11).

Dept. Com. No. 27, from the State Auditor dated December 28, 2010, transmitting a report, "Management Audit of the Department of Public Safety's Contracting for Prison Beds and Services," (Report No. 10-10).

Dept. Com. No. 28, from the Charter School Administrative Office dated December 30, 2010, transmitting a report, "Budget Proviso Responses," pursuant to Act 180, SLH 2010.

Dept. Com. No. 29, from the Department of Commerce and Consumer Affairs dated December 28, 2010, transmitting the Preliminary Report of the Mortgage Foreclosure Task Force pursuant to Act 162, SLH 2010.

Dept. Com. No. 30, from the Charter School Administrative Office dated December 30, 2010, transmitting the Charter Schools Funding Task Force Final Report pursuant to S.C.R. 108 (2010).

Dept. Com. No. 31, from the University of Hawai'i dated January 5, 2011, transmitting the Report by the UH Task Force on Developing a Budgetary System and a Funding Formula for Distribution of Fiscal Resources to UH Campuses for 2010 pursuant to Act 188, Section 3, SLH 2008.

Dept. Com. No. 32, from the Office of Hawaiian Affairs dated December 27, 2010, transmitting the report, 'The Disparate Treatment of Native Hawaiians in the Criminal Justice System,' pursuant to H.C.R. No. 27 (2009).

Dept. Com. No. 33, from the University of Hawai'i dated January 6, 2011, transmitting the Report on the Sources of Revenue for the Research Training and Revolving Fund pursuant to Act 180, Section 8(11), SLH 2010.

Dept. Com. No. 34, from the University of Hawai'i dated January 6, 2011, transmitting the Annual Report on Nursing Scholars Program pursuant to Section 304A-3305, HRS.

Dept. Com. No. 35, from the University of Hawai'i dated January 6, 2011, transmitting the Annual Report from the Hawai'i Natural Energy Institute pursuant to Section 304A-1891, HRS.

Dept. Com. No. 36, from the University of Hawai'i dated January 6, 2011, transmitting the Report on Requesting the UH Procurement Institute to Review the Policies and Requirements in the Awarding of State Energy Service Contracts pursuant to H.C.R. No. 288 (2010).

Dept. Com. No. 37, from the University of Hawai'i dated January 6, 2011, transmitting the Report on P-20 Statewide Longitudinal Data System Status and Planning pursuant to S.C.R. 146 (2009).

Dept. Com. No. 38, from the University of Hawai'i dated January 10, 2011, transmitting the 2010 Annual Report of The Research Corporation of the University of Hawai'i.

Dept. Com. No. 39, from the Legislative Reference Bureau dated January 20, 2011, transmitting the Report of the Illegal Fireworks Task Force pursuant to Act 170, SLH 2010.

Dept. Com. No. 40, from the State Ombudsman dated January 20, 2011, transmitting the Annual Report for Fiscal Year 2009-2010 (Report No. 41) pursuant to Section 96-16, HRS.

Dept. Com. No. 41, from the Department of Budget and Finance dated January 11, 2011, transmitting the FYs 08-14 Non-General Fund Information Report pursuant to Section 37-47, HRS.

Dept. Com. No. 42, from the University of Hawai'i dated January 21, 2011, transmitting the Report on Findings from the Hawai'i Physician Workforce Assessment Project pursuant to Act 18, Section 5, SLH 2009.

SENATE CONCURRENT RESOLUTION

The following concurrent resolution (S.C.R. No. 21) was read by the Clerk and was deferred:

S.C.R. No. 21 "SENATE CONCURRENT RESOLUTION DECLARING FEBRUARY 6, 2011 AS RONALD REAGAN DAY IN HONOR OF THE CENTENNIAL ANNIVERSARY OF HIS BIRTH."

Offered by: Senators Slom, Chun Oakland, Kidani, Tokuda, Fukunaga, Galuteria, Ryan, Wakai.

STANDING COMMITTEE REPORT

Senator Green, for the Committee on Health, presented a report (Stand. Com. Rep. No. 4) recommending that S.B. No. 420, as amended in S.D. 1, be recommitted to the Committee on Health.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and S.B. No. 420, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," was recommitted to the Committee on Health.

ORDER OF THE DAY

THIRD READING

Stand. Com. Rep. No. 3 (S.B. No. 8, S.D. 1):

Senator Ige moved that Stand. Com. Rep. No. 3 be adopted and S.B. No. 8, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Kidani.

Senator Tokuda rose to speak in support of the measure and said:

"Colleagues, I would first like to express my deep appreciation for the support you have shown us as we have worked to expedite this measure. In November, the voters sent a clear message, a call to action—if you will—that when it

comes to making decisions about our children's education, they wanted the Governor to be held responsible.

"Senate Bill 8 is our answer to that call, setting in place a process that gives the people of Hawai'i the kind of direct accountability they asked for. This measure allows the Governor to appoint members to the Board of Education and provides him or her with the latitude necessary to be able to consult with whomever they need in order to make their decisions. Taking into account lessons learned from other boards and commissions, we have also developed a strong advise and consent process that would require the Senate to consider such factors as experience and understanding of the needs of students, parents, and the overall P-20 system, geographic representation, diversity, and broad educational stakeholder representation.

"I would also note that our measure is the only one that allows for six statewide at-large positions, in addition to one designated member per county. This is an important difference in that it would allow the current and future governors the option of appointing more than one member from any of the four counties in order to best represent the geographic and socio-economic diversities of our communities.

"Another aspect of S.B. No. 8 that is different from most of its other counterparts, is that it provides for a voting student member. For the past 30 years, generations of students have fought for this right, seeking to end the practice that they could be seen, they could even be heard, but in the end, they did not count. While this in and of itself is a contentious issue, I would be remiss if we did not take this opportunity to seek to right this wrong.

"That being said, your committee worked hard and listened to the concerns raised by testifiers and I believe that the amendments we made to require them to be registered to vote—which they can be at age 16—maintain a 2.0 GPA, and to limit voting to non-personnel issues only, makes for a very solid case for voting rights.

"This measure was supported by a vast majority of testifiers, but as with all bills, there were those that opposed the process that would be put in place. Some have argued that this gives the Governor too much power, but I would remind them that with power, comes much responsibility and ultimately, accountability.

"The power that comes with appointments can cut both ways. Appoint good candidates who make good decisions and their praises reflect on you as well. Misjudge the character of a candidate who fails to understand the importance of their decisions, and their criticisms will squarely fall on top of your shoulders. It is at this point, when things are not going well, that swift and sound action must be taken by the person directly and solely responsible for the nomination. Where an advisory council format can, and has, resulted in finger-pointing when challenges arise, the direct appointment process we have established would leave no doubt in anyone's mind who must take corrective action.

"Today the House will be hearing their measures on the appointed Board of Education process and I hope that as our measure moves forward, it would be given serious consideration.

"In closing, I would like to thank all of the members of my committee. Each and every one of whom sat and worked with me on amending this measure we have before us today. This was truly a collaborative effort and I think it was a great first bill for us to pass out of our committee. I would also like to thank the current members of the Board of Education for their dedication to our students and our schools and for their overwhelming desire and willingness to serve. I would

especially like to recognize Dr. Lei Ahu Isa. Her decision to step down to allow the Governor his first appointment was no doubt a difficult one, and I truly appreciate the leadership she has shown through her actions.

“And finally, I would like to thank everyone who has worked on all of these measures over the past year or so and who have shared their thoughts and opinions with us. It is clear that we all care about our children and the education they receive. Now, we need to roll up our sleeves and get to work. Colleagues, I will be voting in support of this measure and I humbly ask for your support as well. Thank you.”

Senator Slom rose to speak in support of the measure and said:

“First of all I want to thank the Education Chairman for all her diligence, prior to this session and during the session. And I think this is one of the better moments in our State Legislature, because, first of all, we listen to the people and for those nay-sayers that said, ‘Oh, the Legislature’s just going to gum it up, delay; they won’t be able to reach a decision.’ We showed that, in fact, we are capable of doing that; we’ve done it and we wish Godspeed over in the House. Thank you.”

Senator English rose to speak in support of the measure and said:

“I want to thank the chair of the committee for doing such an excellent job of putting this together. There’s just one small thing that I think, perhaps, was a bit of an oversight and I hope that we can correct this as the bill moves forward. It requires the new Board of Education to hold meetings in each county once a year, but Maui County is made up of four islands and I would really like to see that we require the new board to meet on each island, because Moloka’i and Lāna’i need to be included in this discussion, or—for that matter—we have to make sure that all of the rural areas are included as well. So, I’d like to support the measure and put that on the table for future discussion. Thank you.”

Senator Baker rose to request that remarks in support of the measure be entered into the Journal, and the Chair so ordered.

The Chair having so ordered, Senator Baker’s remarks read as follows:

“Mr. President, I rise in support of this measure. We have an obligation to provide our keiki with the highest quality education possible. We also have an obligation to represent the people whom we serve, and last November they overwhelmingly supported a constitutional amendment to shift from and elected to an appointed board of education.

“There can no assurance of quality education without accountability. The Governor asked to be held accountable for our state’s public education and the electorate agreed. By appointing board members, with Senate confirmation, prospective board members will have the opportunity to share all of their qualifications with the public in an open, transparent process. The Senate will be able to engage in a thorough examination of the qualifications of each of the candidates being appointed to the board and the public can weigh in.

“The candidates will have to stand on their merit and track record. Because of a more streamlined removal process, the candidates will have to deliver on their promises to provide a quality education for all of Hawai’i’s keiki in our public schools.

“In addition, this bill provides for diversity on the board and geographic representation of all parts of our state. This measure represents a rational approach to implementing the will of the voters. I urge my colleagues to join me to vote yes on this

legislation and move the bill to the House and then on to the Governor as expeditiously as we can. Mahalo.”

The motion was put by the Chair and carried, Stand. Com. Rep. No. 3 was adopted and S.B. No. 8, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO EDUCATION,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

At this time, the Chair made the following announcement:

“Referrals and re-referrals are made in accordance with the referrals and re-referrals on the Order of the Day and on the Supplemental Order of the Day to be distributed to your offices later this afternoon.”

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. 9	Committee on Public Safety, Government Operations, and Military Affairs, then to the Committee on Ways and Means
S.B. No. 420, S.D. 1	Committee on Health, then to the Committee on Ways and Means
S.B. No. 682	Committee on Water, Land, and Housing, then to the Committee on Judiciary and Labor
S.B. No. 822	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 Judiciary and Labor
S.B. No. 935	Jointly to the Committee on Human Services and the Committee on Health, then to the Committee on Ways and Means
S.B. No. 1267	Jointly to the Committee on Human Services and the Committee on Health, then to the Committee on Ways and Means

ADJOURNMENT

At 11:48 a.m., on motion by Senator Espero, seconded by Senator Slom and carried, the Senate adjourned until 11:30 a.m., Tuesday, February 1, 2011.