

## THIRTY-EIGHTH DAY

Wednesday, March 24, 2010

The Senate of the Twenty-Fifth Legislature of the State of Hawai'i, Regular Session of 2010, convened at 11:46 a.m. with the President in the Chair.

The Divine Blessing was invoked by Ms. Feleai "Fele" Tau, Office of the Honorable Josh Green, M.D., Hawai'i State Senate, after which the Roll was called showing all Senators present.

The President announced that she had read and approved the Journal of the Thirty-Seventh Day.

At this time, the following introduction was made to the members of the Senate:

Senator Gabbard recognized and congratulated the officers and members of the Hawai'i Farmers Union for their efforts to encourage and advance the invaluable work of farmers and the importance of restorative and sustainable agriculture in the state. The Hawai'i Farmers Union was represented by Lydi Morgan, Vice President; Ramonda Hillawe Gamayo, Secretary; Pamela Boyar, Board Member; Travis Overly, Member; Jay Ogden, Board Member; and Annie Suite, Board Member.

At 11:52 a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:00 p.m.

## MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 380 and 381) were read by the Clerk and were placed on file:

Gov. Msg. No. 380, informing the Senate that on March 23, 2010, the Governor signed into law Senate Bill No. 2602, H.D. 1 as Act 9, entitled: "RELATING TO REAL ESTATE LICENSEES."

Gov. Msg. No. 381, letter dated March 18, 2010, as provided in Section 9, Article VII of the Constitution of the State of Hawaii, requesting the immediate consideration and passage of a \$40,000,000 FY 10 emergency general fund appropriation for the health care payments program (HMS 401) and a corresponding federal match to address a funding shortfall in the Medicaid program, and defer to the Legislature to find a suitable bill to insert draft language.

## HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 274 to 276) were read by the Clerk and were placed on file:

Hse. Com. No. 274, returning S.B. No. 2772, S.D. 2, which passed Third Reading in the House of Representatives on March 23, 2010.

Hse. Com. No. 275, informing the Senate that the House agreed to the amendments proposed by the Senate to H.B. No. 2427, H.D. 1, and H.B. No. 2427, H.D. 1, S.D. 1 passed Final Reading in the House of Representatives on March 23, 2010.

Hse. Com. No. 276, informing the Senate that on March 23, 2010, the House disagreed to the amendments proposed by the Senate to the following House Bills:

H.B. No. 1853 (S.D. 1); and  
H.B. No. 2027, H.D. 1 (S.D. 1).

## STANDING COMMITTEE REPORTS

Senator Sakamoto, for the Committee on Education and Housing, presented a report (Stand. Com. Rep. No. 2846) recommending that S.C.R. No. 142, as amended in S.D. 1, be referred to the Committee on Ways and Means.

On motion by Senator Sakamoto, seconded by Senator Slom and carried, the report of the Committee was adopted and S.C.R. No. 142, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING RESEARCH AND THE ESTABLISHMENT OF A POLICY GROUP TO INFORM THE DEPARTMENT OF EDUCATION'S DETERMINATION OF ITS CORE MISSION AND CORE FUNCTIONS," 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. 2847) recommending that S.C.R. No. 110, as amended in S.D. 1, be referred to the Committee on Ways and Means.

On motion by Senator Sakamoto, seconded by Senator Slom and carried, the report of the Committee was adopted and S.C.R. No. 110, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE ESTABLISHMENT OF A WORKING GROUP TO DEVELOP A COMPREHENSIVE PLAN TO IMPROVE AWARENESS OF AND STRENGTHEN SUPPORT FOR PERSONS WITH DYSLEXIA," 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. 2848) recommending that S.C.R. No. 109, as amended in S.D. 1, be referred to the Committee on Ways and Means.

On motion by Senator Sakamoto, seconded by Senator Slom and carried, the report of the Committee was adopted and S.C.R. No. 109, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING A TRANSITION PLAN FOR THE TRANSFER OF THE HAWAII STATE PUBLIC LIBRARY SYSTEM FROM THE BOARD OF EDUCATION TO THE DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES," 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. 2849) recommending that S.C.R. No. 108, as amended in S.D. 1, be referred to the Committee on Ways and Means.

On motion by Senator Sakamoto, seconded by Senator Slom and carried, the report of the Committee was adopted and S.C.R. No. 108, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE CONVENING OF A TASK FORCE TO ESTABLISH A CONSISTENT FUNDING FORMULA, PROCESS, OR BOTH, BY WHICH EQUITABLE FUNDING TO CHARTER SCHOOLS IS DETERMINED," 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. 2850) recommending that S.C.R. No. 95, as amended in S.D. 1, be referred to the Committee on Ways and Means.

On motion by Senator Sakamoto, seconded by Senator Slom and carried, the report of the Committee was adopted and S.C.R. No. 95, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THAT A TASK FORCE BE

ESTABLISHED TO IDENTIFY THE LIBRARY SERVICES NEEDED IN UNDERSERVED COMMUNITIES AND SEEK COMMUNITY SOURCES OF FUNDING TO OFFSET THE LOSS OF FUNDING TO LIBRARIES," was referred to the Committee on Ways and Means.

Senator English, for the Committee on Transportation, International and Intergovernmental Affairs, presented a report (Stand. Com. Rep. No. 2851) recommending that S.C.R. No. 126 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 2851 and S.C.R. No. 126, entitled: "SENATE CONCURRENT RESOLUTION URGING THE UNITED NATIONS TO GRANT TAIWAN MEANINGFUL PARTICIPATION IN THE INTERNATIONAL CIVIL AVIATION ORGANIZATION," was deferred until Monday, March 29, 2010.

Senator Takamine, for the majority of the Committee on Labor, presented a report (Stand. Com. Rep. No. 2852) recommending that H.B. No. 1868, H.D. 1 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Sakamoto, seconded by Senator Slom and carried, the report of the majority of the Committee was adopted and H.B. No. 1868, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CIVIL SERVICE," passed Second Reading and was placed on the calendar for Third Reading on Monday, March 29, 2010.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 2853) recommending that H.B. No. 2289, H.D. 2, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Sakamoto, seconded by Senator Slom and carried, the report of the Committee was adopted and H.B. No. 2289, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO GIFT CERTIFICATES," passed Second Reading and was placed on the calendar for Third Reading on Monday, March 29, 2010.

Senators Baker and English, for the Committee on Commerce and Consumer Protection and the Committee on Transportation, International and Intergovernmental Affairs, presented a joint report (Stand. Com. Rep. No. 2854) recommending that H.B. No. 1927, H.D. 2, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Sakamoto, seconded by Senator Slom and carried, the joint report of the Committees was adopted and H.B. No. 1927, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO OWNER-BUILDERS," passed Second Reading and was placed on the calendar for Third Reading on Monday, March 29, 2010.

#### ORDER OF THE DAY

#### ADVISE AND CONSENT

Stand. Com. Rep. No. 2830 (Gov. Msg. No. 218):

Senator Ige moved that Stand. Com. Rep. No. 2830 be received and placed on file, seconded by Senator Green and carried.

Senator Ige then moved that the Senate advise and consent to the nomination of GORDON M. DURANT to the State Council on Mental Health, term to expire June 30, 2014, seconded by Senator Green.

The motion was put by the Chair and carried on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 2831 (Gov. Msg. Nos. 208, 209, 257, 258, and 259):

Senator Ige moved that Stand. Com. Rep. No. 2831 be received and placed on file, seconded by Senator Green and carried.

Senator Ige then moved that the Senate advise and consent to the nominations to the State Council on Developmental Disabilities of the following:

JOANN W.L. YUEN, term to expire June 30, 2010 (Gov. Msg. No. 208);

JOANN W.L. YUEN, term to expire June 30, 2014 (Gov. Msg. No. 209);

CAROLINE M.T. CADIRAO, term to expire June 30, 2010 (Gov. Msg. No. 257);

CAROLINE M.T. CADIRAO, term to expire June 30, 2014 (Gov. Msg. No. 258); and

JOSHUA I. SMALLEY-BOWER, term to expire June 30, 2012 (Gov. Msg. No. 259),

seconded by Senator Green.

The motion was put by the Chair and carried on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 2832 (Gov. Msg. Nos. 215, 216, and 217):

Senator Ige moved that Stand. Com. Rep. No. 2832 be received and placed on file, seconded by Senator Green and carried.

Senator Ige then moved that the Senate advise and consent to the nominations to the Mental Health and Substance Abuse, Kua'i Service Area Board of the following:

CRYSTAL LEE AGUINALDO, term to expire June 30, 2013 (Gov. Msg. No. 215);

THOMAS E. DORSEY PHD, term to expire June 30, 2014 (Gov. Msg. No. 216); and

BRENDA K. VIADO CRC, term to expire June 30, 2014 (Gov. Msg. No. 217),

seconded by Senator Green.

The motion was put by the Chair and carried on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 2833 (Gov. Msg. Nos. 289, 290, and 291):

Senator Ige moved that Stand. Com. Rep. No. 2833 be received and placed on file, seconded by Senator Green and carried.

Senator Ige then moved that the Senate advise and consent to the nominations to the Disability and Communication Access Board of the following:

LUCY MILLER PHD, term to expire June 30, 2014 (Gov. Msg. No. 289);

LYNN K. MURAKAMI-AKATSUKA, term to expire June 30, 2010 (Gov. Msg. No. 290); and

LYNN K. MURAKAMI-AKATSUKA, term to expire June 30, 2014 (Gov. Msg. No. 291),

seconded by Senator Green.

The motion was put by the Chair and carried on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 2834 (Gov. Msg. Nos. 213 and 214):

Senator Ige moved that Stand. Com. Rep. No. 2834 be received and placed on file, seconded by Senator Green and carried.

Senator Ige then moved that the Senate advise and consent to the nominations to the Health Planning Council, Kaua'i Subarea of the following:

KATHLEEN A. CLARK, term to expire June 30, 2010 (Gov. Msg. No. 213); and

KATHLEEN A. CLARK, term to expire June 30, 2014 (Gov. Msg. No. 214),

seconded by Senator Green.

The motion was put by the Chair and carried on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 2835 (Gov. Msg. Nos. 260, 261, and 262):

Senator Ige moved that Stand. Com. Rep. No. 2835 be received and placed on file, seconded by Senator Green and carried.

Senator Ige then moved that the Senate advise and consent to the nominations to the Health Planning Council, Tri-Isle Subarea of the following:

ANNE TRYGSTAD, term to expire June 30, 2010 (Gov. Msg. No. 260);

ANNE TRYGSTAD, term to expire June 30, 2014 (Gov. Msg. No. 261); and

MARTHA J. TURNER, term to expire June 30, 2013 (Gov. Msg. No. 262),

seconded by Senator Green.

The motion was put by the Chair and carried on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 2836 (Gov. Msg. No. 211):

Senator Ige moved that Stand. Com. Rep. No. 2836 be received and placed on file, seconded by Senator Green and carried.

Senator Ige then moved that the Senate advise and consent to the nomination of MARCIANO D. AQUINO to the Emergency Medical Services Advisory Committee, term to expire June 30, 2014, seconded by Senator Green.

The motion was put by the Chair and carried on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 2837 (Gov. Msg. Nos. 204, 205, 206, and 207):

Senator Ige moved that Stand. Com. Rep. No. 2837 be received and placed on file, seconded by Senator Green and carried.

Senator Ige then moved that the Senate advise and consent to the nominations to the State Council on Developmental Disabilities of the following:

JOAN M. BELLARD, term to expire June 30, 2014 (Gov. Msg. No. 204);

ANNEMARIE L. KALAMA, term to expire June 30, 2010 (Gov. Msg. No. 205);

ANNEMARIE L. KALAMA, term to expire June 30, 2014 (Gov. Msg. No. 206); and

JOSEPH CURTIS TYLER III, term to expire June 30, 2014 (Gov. Msg. No. 207),

seconded by Senator Green.

The motion was put by the Chair and carried on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 2838 (Gov. Msg. No. 210):

Senator Ige moved that Stand. Com. Rep. No. 2838 be received and placed on file, seconded by Senator Green and carried.

Senator Ige then moved that the Senate advise and consent to the nomination of TAMAH-LANI S.K. NOH to the Hawai'i Advisory Commission on Drug Abuse and Controlled Substances, term to expire June 30, 2014, seconded by Senator Green.

The motion was put by the Chair and carried on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 2839 (Gov. Msg. No. 212):

Senator Ige moved that Stand. Com. Rep. No. 2839 be received and placed on file, seconded by Senator Green and carried.

Senator Ige then moved that the Senate advise and consent to the nomination of KEVIN D. CASSEL to the Board of Health, term to expire June 30, 2014, seconded by Senator Green.

The motion was put by the Chair and carried on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 2840 (Gov. Msg. Nos. 263 and 264):

Senator Ige moved that Stand. Com. Rep. No. 2840 be received and placed on file, seconded by Senator Green and carried.

Senator Ige then moved that the Senate advise and consent to the nominations to the Health Planning Council, Windward Oahu Subarea of the following:

JOHN C. KEENE, term to expire June 30, 2010 (Gov. Msg. No. 263); and

JOHN C. KEENE, term to expire June 30, 2014 (Gov. Msg. No. 264),

seconded by Senator Green.

The motion was put by the Chair and carried on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 2841 (Gov. Msg. No. 292):

Senator Ige moved that Stand. Com. Rep. No. 2841 be received and placed on file, seconded by Senator Green and carried.

Senator Ige then moved that the Senate advise and consent to the nomination of RICHARD E. MEIERS to the Statewide Health Coordinating Council, term to expire June 30, 2012, seconded by Senator Green.

The motion was put by the Chair and carried on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 2842 (Gov. Msg. No. 220):

Senator Taniguchi moved that Stand. Com. Rep. No. 2842 be received and placed on file, seconded by Senator Takamine and carried.

Senator Taniguchi then moved that the Senate advise and consent to the nomination of ELIZABETH KENT to the Commission to Promote Uniform Legislation, term to expire June 30, 2014, seconded by Senator Takamine.

The motion was put by the Chair and carried on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

#### ADOPTION OF A RESOLUTION

##### MATTER DEFERRED FROM TUESDAY, MARCH 23, 2010

Stand. Com. Rep. No. 2843 (H.C.R. No. 70):

On motion by Senator Sakamoto, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 70, entitled: "HOUSE CONCURRENT RESOLUTION RECOGNIZING AND COMMENDING THOSE WHO PROVIDE SUPPORT TO THE FAMILIES OF DEPLOYED MEMBERS OF THE ARMED FORCES," was adopted.

#### THIRD READING

H.B. No. 1992, H.D. 1, S.D. 1:

On motion by Senator Taniguchi, seconded by Senator Takamine and carried, H.B. No. 1992, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE INTERMEDIATE APPELLATE COURT," passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

H.B. No. 2721, H.D. 1, S.D. 1:

On motion by Senator Taniguchi, seconded by Senator Takamine and carried, H.B. No. 2721, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO COURT REPORTERS," passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

At this time, Senator Slom rose on a point of personal privilege and said:

"Madam President and colleagues, I had an angry constituent call me yesterday. Can you imagine that? An angry constituent. And he said he was concerned about my vote on a particular bill that was registered as a vote 'with reservations', or as the Senate President likes to say, 'W/R: Wimpy

Republican.' I assured him, 'Oh, no, no. No, no, no. I voted "no" on that bill.' And he said, 'No, no, no. I'm looking at the official website and it says you voted "with reservations." ' And so we went to the final report of the committee and so forth, and we found out that he was right, that I had in fact voted 'no' on the bill, and we were trying to unravel the procedure as to how you get a vote corrected once it's been reported. And so I was urged to stand up today, bare my soul, call upon God and man, and to request that a change be made.

"We're talking about a vote that took place on the 8<sup>th</sup> of March in the TIA Committee on House Bill 2667. Now Madam President, you and my colleagues know I take meticulous notes during committees, and since I do believe in paper and, you know, God's trees and so forth, I write everything down, including who's present, what the votes are, what the discussion is. House Bill 2667, H.D. 1 happens to be a bill that calls for a state study of a state-operated ferry system. Now Madam President, you know I could not support a state ferry system after supporting the Superferry; and so in consultation with the people in charge, there was an error. We're not exactly sure how the error occurred because we do, of course, live in a no-fault state so no one could possibly be at fault, but I'm requesting that the vote be corrected and reflect my 'no' vote on that particular bill, and so I appeal to the Senate President, to the Senate Clerk, to the Committee which seems to have no problem with making that change.

"I did note that in the Senate Rules, under 'Rule 25: Committees', it says, 'The final report of the committee shall be attested to by the signature of the chair on behalf of the members of the committee. The action of the committee on the bill or resolution or any amendments thereto, if any, and the final vote of each member of the committee recorded by the chair or the chair's designee at a decision-making meeting shall not be changed in the review of the report, unless the change is made at an open decision-making meeting conducted with a quorum of the committee present.' So I would suggest that this is an open meeting, that all members are present today, and I would just like to make sure that everything was taken of. But I am very happy that we do have constituents that read, that go to our website, and that call us upon our votes or non-votes. So that's my point today, Madam President. Thank you for your consideration."

At this time, the Chair made the following announcement:

"Re-referrals are made in accordance with the re-referrals listed on the Supplemental Order of the Day that may be distributed to your offices later this afternoon."

#### RE-REFERRAL OF A SENATE CONCURRENT RESOLUTION

The Chair re-referred the following Senate concurrent resolution that was offered:

S.C.R. No.:	Re-referred to:
S.C.R. No. 224	Jointly to the Committee on Economic Development and Technology and the Committee on Water, Land, Agriculture, and Hawaiian Affairs

#### RE-REFERRAL OF A SENATE RESOLUTION

The Chair re-referred the following Senate resolution that was offered:

S. R. No.:	Re-referred to:
S.R. No. 115	Jointly to the Committee on Economic Development and Technology and the Committee on Water, Land, Agriculture, and Hawaiian Affairs

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**ADJOURNMENT**

At 12:09 p.m., on motion by Senator Sakamoto, seconded by Senator Slom and carried, the Senate adjourned until 11:30 a.m., Monday, March 29, 2010.