

## TWENTY-THIRD DAY

## Wednesday, February 22, 2006

The Senate of the Twenty-Third Legislature of the State of Hawaii, Regular Session of 2006, convened at 11:48 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by the Honorable Gordon Trimble, Hawaii State Senate, after which the Roll was called showing all Senators present with the exception of Senators Kim and Sakamoto who were excused.

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

At 11:59 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:08 o'clock p.m.

## MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 298 and 299) were read by the Clerk and were placed on file:

Gov. Msg. No. 298, dated January 27, 2006, transmitting a report, "Hawaii's Workforce in 2005: Stepping Stones to 2006," prepared by the Department of Labor and Industrial Relations, Hawaii Workforce Development Council, pursuant to Chapter 202, HRS

Gov. Msg. No. 299, dated February 15, 2006, transmitting a Report on the Adequacy of Federal Funding for the No Child Left Behind Act, prepared by the Department of Budget and Finance pursuant to Act 178, Section 153, SLH 2005.

## HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 31 to 34) were read by the Clerk and were disposed of as follows:

Hse. Com. No. 31, transmitting H.B. No. 2050, H.D. 2, which passed Third Reading in the House of Representatives on February 21, 2006, was placed on file.

On motion by Senator Hee, seconded by Senator Hogue and carried, H.B. No. 2050, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO INTERNATIONAL MATCHMAKING," passed First Reading by title and was referred to the Committee on Energy, Environment, and International Affairs, then to the Committee on Judiciary and Hawaiian Affairs.

Hse. Com. No. 32, transmitting H.B. No. 2133, which passed Third Reading in the House of Representatives on February 21, 2006, was placed on file.

On motion by Senator Hee, seconded by Senator Hogue and carried, H.B. No. 2133, entitled: "A BILL FOR AN ACT RELATING TO THE NATURAL AREA RESERVE SYSTEM," passed First Reading by title and was referred to the Committee on Water, Land, and Agriculture, then to the Committee on Judiciary and Hawaiian Affairs.

Hse. Com. No. 33, transmitting H.B. No. 2287, H.D. 1, which passed Third Reading in the House of Representatives on February 21, 2006, was placed on file.

On motion by Senator Hee, seconded by Senator Hogue and carried, H.B. No. 2287, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CHILD SUPPORT ENFORCEMENT," passed First Reading by title and was referred to the Committee on Commerce, Consumer Protection and Housing, then to the Committee on Judiciary and Hawaiian Affairs.

Hse. Com. No. 34, transmitting H.B. No. 3234, H.D. 1, which passed Third Reading in the House of Representatives on February 21, 2006, was placed on file.

On motion by Senator Hee, seconded by Senator Hogue and carried, H.B. No. 3234, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS," passed First Reading by title and was referred to the Committee on Judiciary and Hawaiian Affairs.

## SENATE COMMUNICATION

Sen. Com. No. 1, notice to the Governor dated February 22, 2006, transmitting S.B. No. 2182, S.D. 1; S.B. No. 2479; S.B. No. 2571; S.B. No. 2610, S.D. 1; S.B. No. 2797; and S.B. No. 3040, which propose amendments to the Hawaii State Constitution, was read by the Clerk and was disposed of as follows:

By unanimous consent, the following notice was sent to the Governor:

"February 22, 2006

The Honorable Linda Lingle  
Governor of the State of Hawaii  
State Capitol  
Honolulu, Hawaii 96813

Dear Governor Lingle:

In accordance with the provisions of Article XVII, Section 3 of the Hawaii State Constitution, written notice is hereby given of the final form to the following bill(s), a copy of which is attached hereto:

S.B. No. 2182, S.D. 1

'PROPOSING AN AMENDMENT TO ARTICLE X, SECTION 2, RELATING TO EDUCATION.'

S.B. No. 2479

'PROPOSING AN AMENDMENT TO ARTICLE VII, SECTION 12, OF THE HAWAII STATE CONSTITUTION.'

S.B. No. 2571

'PROPOSING AMENDMENTS TO THE HAWAII STATE CONSTITUTION RELATING TO SPECIAL PURPOSE REVENUE BONDS.'

S.B. No. 2610, S.D. 1

'PROPOSING AN AMENDMENT TO THE HAWAII CONSTITUTION RELATING TO CHANGING THE NAME OF THE INTERMEDIATE APPELLATE COURT.'

S.B. No. 2797

'PROPOSING AN AMENDMENT TO THE HAWAII STATE CONSTITUTION RELATING TO JUDGES.'

S.B. No. 3040  
 'PROPOSING AN AMENDMENT TO THE HAWAII  
 CONSTITUTION RELATING TO EXCESS REVENUES.'

Respectfully,

/s/ Paul T. Kawaguchi  
 PAUL T. KAWAGUCHI  
 Clerk of the Senate"

**SENATE CONCURRENT RESOLUTIONS**

The following concurrent resolutions (S.C.R. Nos. 20 to 27)  
 were read by the Clerk and were referred to committees or  
 deferred:

Senate Concurrent Resolution

No. 20 "SENATE CONCURRENT RESOLUTION  
 URGING THE STATE COUNCIL OF HAWAIIAN  
 HOMESTEAD ASSOCIATIONS TO DEVELOP AND  
 SUBMIT TO THE SECRETARY OF THE INTERIOR A LIST  
 OF CANDIDATES FOR THE NINE MEMBER  
 COMMISSION CALLED FOR IN THE NATIVE HAWAIIAN  
 REORGANIZATION ACT, ALSO KNOWN AS THE  
 AKAKA BILL."

Offered by: Senator Hanabusa, by request.

Referred to: Jointly to the Committee on Judiciary and  
 Hawaiian Affairs and the Committee on Intergovernmental  
 Affairs

No. 21 "SENATE CONCURRENT RESOLUTION  
 URGING HAWAII'S FEDERAL AND STATE OFFICIALS  
 TO SEEK AN EXCEPTION TO HOMELAND SECURITY  
 POLICIES THAT BAR CERTAIN ACTIVITIES ON  
 HAWAII'S WATERFRONT SO THAT SPECIFIC PIERS  
 MAY BE USED BY THE PUBLIC TO DECORATE FLOATS  
 FOR THE KING KAMEHAMEHA CELEBRATION, PRINCE  
 KUHIO COMMEMORATIVE CELEBRATION, AND THE  
 ALOHA WEEK FESTIVALS."

Offered by: Senator Hanabusa.

Referred to: Jointly to the Committee on Tourism and  
 the Committee on Transportation and Government  
 Operations

No. 22 "SENATE CONCURRENT RESOLUTION  
 REQUESTING THAT THE DEPARTMENT OF HAWAIIAN  
 HOME LANDS ADVOCATE FOR THE PROTECTION OF  
 MOLOKAI SURFACE AND GROUND WATER FOR  
 HAWAIIAN HOMESTEADERS."

Offered by: Senator Hanabusa.

Referred to: Jointly to the Committee on Judiciary and  
 Hawaiian Affairs and the Committee on Water, Land, and  
 Agriculture

No. 23 "SENATE CONCURRENT RESOLUTION  
 REQUESTING THE DEPARTMENT OF LAND AND  
 NATURAL RESOURCES TO DEDICATE A BERTHING  
 AREA IN EACH COUNTY WHERE NON-PROFIT  
 ORGANIZATIONS CAN MOOR THEIR VOYAGING  
 CANOES."

Offered by: Senators Hooser, English, Chun Oakland,  
 Baker, Nishihara, Tsutsui, Sakamoto, Menor, Espero,

Fukunaga, Kokubun, Hee, Ihara, Ige, Trimble, Kim, Slom,  
 Kanno.

Referred to: Jointly to the Committee on Judiciary and  
 Hawaiian Affairs and the Committee on Water, Land, and  
 Agriculture

No. 24 "SENATE CONCURRENT RESOLUTION  
 REQUESTING THE CLERK OF THE SENATE AND THE  
 CLERK OF THE HOUSE OF THE HAWAII STATE  
 LEGISLATURE TO POST INTERNAL ACCOUNTING  
 INFORMATION ON THE INTERNET SITES OF THE  
 RESPECTIVE HOUSES."

Offered by: Senators Espero, Chun Oakland, Bunda,  
 Whalen, Ihara, Kanno, Hooser, Tsutsui, Menor, Hogue,  
 Inouye, Nishihara, Kim, Sakamoto, Trimble, Hanabusa, Ige,  
 Hemmings, Slom, Kokubun, Baker, Hee.

Referred to: Jointly to the Committee on Transportation  
 and Government Operations and the Committee on Ways  
 and Means

No. 25 "SENATE CONCURRENT RESOLUTION  
 REQUESTING THE LEGISLATIVE REFERENCE BUREAU  
 TO CONDUCT A STUDY TO RECOMMEND A  
 STATUTORY DEFINITION FOR  
 'UNDEREMPLOYMENT.'"

Offered by: Senator Tsutsui.

No. 26 "SENATE CONCURRENT RESOLUTION  
 REQUESTING THE STATE COUNCIL ON HAWAIIAN  
 HOMESTEAD ASSOCIATIONS TO SUPPORT  
 CANDIDATES SEEKING ELECTION TO THE OFFICE OF  
 HAWAIIAN AFFAIRS WHOSE PERMANENT RESIDENCE  
 IS ON HAWAIIAN HOME LANDS."

Offered by: Senator Hanabusa, by request.

No. 27 "SENATE CONCURRENT RESOLUTION  
 URGING THE DEPARTMENT OF HAWAIIAN HOME  
 LANDS TO SUPPORT THE DEVELOPMENT AND  
 FUNDING OF A COMMUNITY SWIMMING POOL AND A  
 TECHNOLOGICALLY ADVANCED COMPUTER CENTER  
 COMPLEX FOR HAWAIIAN HOMESTEAD RESIDENTS  
 ON MAUI."

Offered by: Senator Hanabusa, by request.

**SENATE RESOLUTIONS**

The following resolutions (S.R. Nos. 7 to 13) were read by  
 the Clerk and were referred to committees or deferred:

Senate Resolution

No. 7 "SENATE RESOLUTION URGING THE  
 STATE COUNCIL OF HAWAIIAN HOMESTEAD  
 ASSOCIATIONS TO DEVELOP AND SUBMIT TO THE  
 SECRETARY OF THE INTERIOR A LIST OF  
 CANDIDATES FOR THE NINE MEMBER COMMISSION  
 CALLED FOR IN THE NATIVE HAWAIIAN  
 REORGANIZATION ACT, ALSO KNOWN AS THE  
 AKAKA BILL."

Offered by: Senator Hanabusa, by request.

Referred to: Jointly to the Committee on Judiciary and  
 Hawaiian Affairs and the Committee on Intergovernmental  
 Affairs

## STANDING COMMITTEE REPORTS

No. 8 "SENATE RESOLUTION URGING HAWAII'S FEDERAL AND STATE OFFICIALS TO SEEK AN EXCEPTION TO HOMELAND SECURITY POLICIES THAT BAR CERTAIN ACTIVITIES ON HAWAII'S WATERFRONT SO THAT SPECIFIC PIERS MAY BE USED BY THE PUBLIC TO DECORATE FLOATS FOR THE KING KAMEHAMEHA CELEBRATION, PRINCE KUHIO COMMEMORATIVE CELEBRATION, AND THE ALOHA WEEK FESTIVALS."

Offered by: Senator Hanabusa.

Referred to: Jointly to the Committee on Tourism and the Committee on Transportation and Government Operations

No. 9 "SENATE RESOLUTION REQUESTING THAT THE DEPARTMENT OF HAWAIIAN HOME LANDS ADVOCATE FOR THE PROTECTION OF MOLOKAI SURFACE AND GROUND WATER FOR HAWAIIAN HOMESTEADERS."

Offered by: Senator Hanabusa.

Referred to: Jointly to the Committee on Judiciary and Hawaiian Affairs and the Committee on Water, Land, and Agriculture

No. 10 "SENATE RESOLUTION REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO DEDICATE A BERTHING AREA IN EACH COUNTY WHERE NON-PROFIT ORGANIZATIONS CAN MOOR THEIR VOYAGING CANOES."

Offered by: Senators Hooser, Chun Oakland, English, Baker, Nishihara, Tsutsui, Sakamoto, Ige, Menor, Espero, Fukunaga, Kokubun, Ihara, Trimble, Kim, Slom, Kanno, Hee.

Referred to: Jointly to the Committee on Judiciary and Hawaiian Affairs and the Committee on Water, Land, and Agriculture

No. 11 "SENATE RESOLUTION REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO CONDUCT A STUDY TO RECOMMEND A STATUTORY DEFINITION FOR 'UNDEREMPLOYMENT.'"

Offered by: Senator Tsutsui.

No. 12 "SENATE RESOLUTION REQUESTING THE STATE COUNCIL ON HAWAIIAN HOMESTEAD ASSOCIATIONS TO SUPPORT CANDIDATES SEEKING ELECTION TO THE OFFICE OF HAWAIIAN AFFAIRS WHOSE PERMANENT RESIDENCE IS ON HAWAIIAN HOME LANDS."

Offered by: Senator Hanabusa, by request.

No. 13 "SENATE RESOLUTION URGING THE DEPARTMENT OF HAWAIIAN HOME LANDS TO SUPPORT THE DEVELOPMENT AND FUNDING OF A COMMUNITY SWIMMING POOL AND A TECHNOLOGICALLY ADVANCED COMPUTER CENTER COMPLEX FOR HAWAIIAN HOMESTEAD RESIDENTS ON MAUI."

Offered by: Senator Hanabusa, by request.

Senator Hanabusa, for the Committee on Judiciary and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 2543) recommending that S.B. No. 2148, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 2148, S.D. 1, entitled: "A BILL FOR AN ACT PROPOSING AMENDMENTS TO THE HAWAII CONSTITUTION RELATING TO THE ATTORNEY GENERAL," passed Second Reading and was placed on the calendar for Third Reading on Thursday, March 2, 2006.

Senator Hanabusa, for the Committee on Judiciary and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 2544) recommending that S.B. No. 2246, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 2246, S.D. 1, entitled: "A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION OF THE STATE OF HAWAII RELATING TO SEXUAL ASSAULT," passed Second Reading and was placed on the calendar for Third Reading on Thursday, March 2, 2006.

Senator Hanabusa, for the Committee on Judiciary and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 2545) recommending that S.B. No. 2931, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 2931, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LAW ENFORCEMENT," passed Second Reading and was placed on the calendar for Third Reading on Thursday, March 2, 2006.

Senator Hanabusa, for the Committee on Judiciary and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 2546) recommending that S.B. No. 2582 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.B. No. 2582, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII RULES OF EVIDENCE," passed Second Reading and was placed on the calendar for Third Reading on Thursday, March 2, 2006.

## ORDER OF THE DAY

## THIRD READING

MATTER DEFERRED FROM  
TUESDAY, FEBRUARY 21, 2006

S.B. No. 3000, S.D. 1:

Senator Menor moved that S.B. No. 3000, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Ige.

Senator Menor then offered the following amendment (Floor Amendment No. 1) to S.B. No. 3000, S.D. 1:

SECTION 1. Senate Bill No. 3000, S.D. 1, is amended by amending Section 201G-118, Hawaii Revised Statutes, as amended by Section 4 of the bill, to read as follows:

“SECTION 4. Section 201G-118, Hawaii Revised Statutes, is amended to read as follows:

“§201G-118 **Housing development; exemption from statutes, ordinances, charter provisions, rules.** (a) The administration may develop, on behalf of the State or with an eligible developer, or may assist under a government assistance program in the development of, housing projects which shall be exempt from all statutes, ordinances, charter provisions, and rules of any governmental agency relating to planning, zoning, construction standards for subdivisions, development and improvement of land, and the construction of units thereon; provided that:

- (1) The project primarily or exclusively includes housing units affordable to households with incomes at or below one hundred forty per cent of the median family income;
- (2) The administration finds the project is consistent with the purpose and intent of this chapter, and meets minimum requirements of health and safety;
- (3) The development of the proposed project does not contravene any safety standards, tariffs, or rates and fees approved by the public utilities commission for public utilities or the various boards of water supply authorized under chapter 54;
- (4) The legislative body of the county in which the project is to be situated shall have approved the project with or without modifications.
  - (A) The legislative body shall approve, approve with modifications, or disapprove the project by resolution within forty-five days after the administration has submitted the preliminary plans and specifications for the project to the legislative body. If on the forty-sixth day a project is not disapproved, it shall be deemed approved by the legislative body;
  - (B) No action shall be prosecuted or maintained against any county, its officials, or employees on account of actions taken by them in reviewing, approving, modifying, or disapproving the plans and specifications; and
  - (C) The final plans and specifications for the project shall be deemed approved by the legislative body if the final plans and specifications do not substantially deviate from the preliminary plans and specifications. The final plans and specifications for the project shall constitute the zoning, building, construction, and subdivision standards for that project. For purposes of sections 501-85 and 502-17, the executive director of the administration, or the responsible county official may certify maps and plans of lands connected with the project as having complied with applicable laws and ordinances relating to consolidation and subdivision of lands, and the maps and plans shall be accepted for registration or recordation by the land court and registrar;
- (5) The land use commission shall approve, approve with modifications, or disapprove a boundary change within forty-five days after the administration has submitted a petition to the commission as provided in section 205-4. If on the forty-sixth day the petition is not disapproved, it shall be deemed approved by the commission.

(b) For the purposes of this section, “government assistance program” means a housing program qualified by the administration and administered or operated by the administration or the United States or any of their political subdivisions, agencies, or instrumentalities, corporate or otherwise.””

Senator Menor moved that Floor Amendment No. 1 be adopted, seconded by Senator Ige.

Senator Menor rose in support of the amendment and said:

“Mr. President, I am requesting of my colleagues that they support this particular floor amendment.

“The bill that this floor amendment would modify relates to Section 201G-118, which governs affordable housing developments sponsored and initiated by the Housing Community Development Corporation of Hawaii. Under existing law, an affordable housing development that is sponsored by HCDCH cannot be implemented until the legislative body of a particular county has had an opportunity to review and to approve the proposed affordable housing project within the required timeframes or periods as spelled out under this particular statutory provision. What this amendment would accomplish is to clarify that with the enactment of S.B. No. 3000, S.D. 1, that that process would not be modified and would remain in effect and intact.

“So, based on those comments, I respectfully ask my colleagues to support the floor amendment that we are now considering today.

“Thank you.”

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

By unanimous consent, S.B. No. 3000, S.D. 2, entitled: “A BILL FOR AN ACT RELATING TO HOUSING,” was placed on the calendar for Third Reading on Thursday, March 2, 2006.

At 12:12 o’clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:13 o’clock p.m.

**REFERRAL OF HOUSE BILLS**

**MATTERS DEFERRED FROM TUESDAY, FEBRUARY 21, 2006**

The President made the following committee assignments of House bills received on Tuesday, February 21, 2006:

House Bill	Referred to:
No. 2476 Affairs	Committee on Judiciary and Hawaiian
No. 2896 Affairs	Committee on Judiciary and Hawaiian
No. 2900 Affairs	Committee on Judiciary and Hawaiian
No. 3242 Affairs	Committee on Judiciary and Hawaiian

**REFERRAL OF  
SENATE CONCURRENT RESOLUTIONS**

The President made the following committee assignments of concurrent resolutions that were offered on Wednesday, January 25, 2006; Thursday, February 9, 2006; Friday, February 17, 2006; and Tuesday, February 21, 2006:

Senate Concurrent Resolution	Referred to:
No. 1	Committee on Health
No. 2	Committee on Human Services
No. 3 Affairs	Committee on Education and Military
No. 4	Committee on Business and Economic Development, then to the Committee on Ways and Means
No. 5 Affairs	Committee on Judiciary and Hawaiian
No. 6	Jointly to the Committee on Intergovernmental Affairs and the Committee on Human Services
No. 7	Committee on Intergovernmental Affairs
No. 8	Committee on Ways and Means
No. 9 Affairs	Committee on Judiciary and Hawaiian
No. 15	Committee on Health
No. 16	Jointly to the Committee on Health and the Committee on Higher Education
No. 17	Committee on Commerce, Consumer Protection and Housing, then to the Committee on Ways and Means
No. 18	Committee on Commerce, Consumer Protection and Housing, then to the Committee on Ways and Means
No. 19	Committee on Health

**REFERRAL OF SENATE RESOLUTIONS**

The President made the following committee assignments of resolutions that were offered on Wednesday, January 25, 2006, and Friday, February 17, 2006:

Senate Resolution	Referred to:
No. 1	Committee on Health
No. 6	Jointly to the Committee on Health and the Committee on Higher Education

**RE-REFERRAL OF A HOUSE BILL**

The Chair re-referred the following House bill that was received:

House Bill	Referred to:
No. 2779, H.D. 1	Jointly to the Committee on Human Services and the Committee on Intergovernmental Affairs, then to the Committee on Judiciary and Hawaiian Affairs

Senator Hee rose on a point of personal privilege and said:

“Mr. President, I rise on a point of personal privilege.

“Mr. President, in Washington it’s called the flip-flop and I guess in Hawaii it’s called uehe, ami and slide. I would just note for the record that in today’s editorial in the Advertiser, depending where you’re from, they either did a flip-flop or they did the uehe, ami and slide.

“On November 30<sup>th</sup>, ’05, the Advertiser said, among other things, ‘The task facing the Board of Regents is enormous. It must launch a national, indeed international, search for a leader who brings both the visionary talent of a Dobelle and the managerial talent of a McClain. This isn’t easy. History teaches us that the regents typically go for one personality type over another – visionary or manager. The University of Hawaii has grown too much and offers far too much potential to play this half-step game any longer. As a system, the University of Hawaii is the jewel that demands world-class leadership.’

“On that same day, one of its editorial writers said, ‘the true measure of a man came when regents were so pleased with his work that they considered skipping the customary nationwide search for Dobelle’s permanent replacement and offering McClain the job. McClain was among those advising regents it would be a mistake. And he was exactly right. That’s just the kind of corner cutting that for decades has kept UH from becoming the first-class university we all wish it to be. Choosing a president must be an open and thorough process that explores all options for making UH a powerful force to elevate the lives of our young people and to help drive Hawaii’s culture and economy.’

“Mr. President and colleagues, my addendum will be posted to the extent that they publish it in letters to the editor. Thank you very much.”

**ADJOURNMENT**

At 12:17 o’clock p.m., on motion by Senator Hee, seconded by Senator Hogue and carried, the Senate adjourned until 11:30 o’clock a.m., Thursday, March 2, 2006.

Respectfully submitted,

Clerk of the Senate

Approved:

President of the Senate