

## FORTY-THIRD DAY

**Wednesday, April 3, 2013**

The House of Representatives of the Twenty-Seventh Legislature of the State of Hawaii, Regular Session of 2013, convened at 12:04 o'clock p.m., with Speaker Souki presiding.

The invocation was delivered by Reverend Samuel Lawrence Domingo of Keolumana United Methodist Church, after which the Roll was called showing all Members present with the exception of Representative Har, who was excused.

By unanimous consent, reading and approval of the Journal of the House of Representatives of the Forty-Second Day was deferred.

### GOVERNOR'S MESSAGES

The following message from the Governor (Gov. Msg. No. 1103) was received and announced by the Clerk and was placed on file:

Gov. Msg. No. 1103, informing the House that on April 1, 2013, the following bill was signed into law:

H.B. No. 915, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT SECURITY LAW." (ACT 003)

### SENATE COMMUNICATIONS

The following communications from the Senate (Sen. Com. Nos. 416 through 421) were received and announced by the Clerk:

Sen. Com. No. 416, transmitting H.B. No. 868, entitled: "A BILL FOR AN ACT RELATING TO ELIMINATING THE ASSET LIMIT ELIGIBILITY REQUIREMENT FOR THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES PROGRAM," which passed Third Reading in the Senate on April 2, 2013.

Sen. Com. No. 417, transmitting H.B. No. 872, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION TO THE DEPARTMENT OF HUMAN SERVICES FROM THE NURSING FACILITY SUSTAINABILITY PROGRAM SPECIAL FUND," which passed Third Reading in the Senate on April 2, 2013.

Sen. Com. No. 418, transmitting H.B. No. 879, HD 2, SD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HOSPITAL SUSTAINABILITY PROGRAM," which passed Third Reading in the Senate on April 2, 2013.

Sen. Com. No. 419, transmitting S.C.R. No. 28, SD 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE PUBLIC UTILITIES COMMISSION TO REPORT TO THE LEGISLATURE ON THE PROGRESS IN IMPLEMENTING THE RECOMMENDATIONS OF THE RELIABILITY STANDARDS WORKING GROUP," which was adopted by the Senate on April 2, 2013.

Sen. Com. No. 420, transmitting S.C.R. No. 87, SD 1, entitled: "SENATE CONCURRENT RESOLUTION URGING THE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS AND THE HAWAII PSYCHOLOGICAL ASSOCIATION TO DEVELOP DRAFT LEGISLATION ESTABLISHING, IMPLEMENTING, AND MONITORING CONTINUING EDUCATION REQUIREMENTS FOR ALL LICENSED PSYCHOLOGISTS IN HAWAII," which was adopted by the Senate on April 2, 2013.

Sen. Com. No. 421, transmitting S.C.R. No. 189, SD 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF TRANSPORTATION TO ADOPT RULES TO ENCOURAGE TAXIS TO USE HIGH EFFICIENCY VEHICLES, INCLUDING HYBRID ELECTRIC VEHICLES, AT HONOLULU INTERNATIONAL AIRPORT," which was adopted by the Senate on April 2, 2013.

Representative Saiki moved to disagree to the amendments made by the Senate to the following House Bill, seconded by Representative Awana and carried: (Representatives Har and Nishimoto were excused.)

H.B. No. 879, HD 2, (SD 1)

### INTRODUCTIONS

The following introductions were made to the Members of the House:

Representative Awana introduced Mr. Tenari Ma'afala, President of SHOPO.

Representative Ward introduced Mr. Henry Curtis, Executive Director, Life of the Land; and Ms. Kat Brady, Assistant Executive Director, Life of the Land.

Representative Choy introduced Miss Lynn Nguyen, Junior at Punahou School, Prudential Spirit of Community Awards 2013 Hawaii State Distinguished Finalist; her father, Mr. Joseph Nguyen; Mr. Todd Thakar, Vice President, Government Affairs; and Ms. Dayna Culbertson, Prudential Alumna.

Representative Thielen introduced Mr. Michael-Logan Jordan, 8th grade student at Kailua Intermediate School, Prudential Spirit of Community Awards 2013 Hawaii State Honoree; his father, MSgt Christopher Jordan; mother, Mrs. Rebecca Jordan; brother, Jaxson Jordan; Sgt. Maj. Ansil Lewis, MCBH Representative; Ms. Dara Young, Department of Education; and Ms. Lisa DeLong, Kailua Intermediate School Principal.

Representative Lowen introduced Mr. Scott Fetz, Junior at Hawaii Preparatory Academy, Prudential Spirit of Community Awards 2013 Hawaii State Distinguished Finalist; and his parents, Mr. and Mrs. Lloyd and Norma Fetz.

Representative Brower introduced Miss Brittany Amano, Sophomore at Iolani, Prudential Spirit of Community Awards 2013 Hawaii State Honoree.

Representative Yamane introduced his friend, Mr. Keane Muranaka.

### ORDER OF THE DAY

#### INTRODUCTION OF RESOLUTIONS (FLOOR PRESENTATIONS)

The following resolution (H.R. No. 214) was announced by the Clerk and the following action taken:

H.R. No. 214, entitled: "HOUSE RESOLUTION CONGRATULATING THE HIGHLANDS INTERMEDIATE SCHOOL SCIENCE OLYMPIAD TEAM ON WINNING FIRST PLACE IN THE HAWAII STATE SCIENCE OLYMPIAD FOR MIDDLE SCHOOLS," was offered by Representative Takayama.

Representative Takayama moved that H.R. No. 214 be adopted, seconded by Representative Takumi.

Representative Takayama congratulated the Pearl City Highlands Intermediate School Science Olympiad Team on winning first place in the middle school division of the Hawaii State Olympiad, emphasizing knowledge in the fields of Science, Technology, Engineering and Math (STEM), and wished them luck at the National Science Olympiad.

Representative Takumi also congratulated the team and introduced honorees who were seated on the Floor of the House:

Team Members: Ms. Michele Fujita, Ms. Kori Muranaka, Ms. Zoe Sano, Ms. Elizabeth Tsusaki and Mr. Alex Yamada.

Representative Takumi then introduced guests who were seated on the gallery:

Team Members: Mr. Brennan Hee, Ms. Kyra Ikeda, Mr. Clement Li, Mr. Brandon Lin, Mr. Zane Ogozo, Ms. Jady Ojiri, Mr. Riley Sodetani, Mr. Luke Uyehara, Mr. Ryan Watanabe and Ms. Riley Yoshihara.

Alternates: Mr. Alexander Lum and Mr. Branson Chang.

Coach: Ms. Kathy Lin.

The motion was put to vote by the Chair and carried, and H.R. No. 214 was adopted, with Representatives Ward and Wooley being excused.

The following resolution (H.R. No. 215) was announced by the Clerk and the following action taken:

H.R. No. 215, entitled: "HOUSE RESOLUTION HONORING THE MAKAHA SONS FOR THEIR CONTRIBUTIONS TO HAWAIIAN MUSIC AND CULTURE," was jointly offered by Representatives Awana and Carroll.

Representative Awana moved that H.R. No. 215 be adopted, seconded by Representative Carroll.

Representative Awana honored and recognized the internationally acclaimed musical group, the Makaha Sons, for their contributions in elevating Hawaiian music and culture, for sharing their talents freely without reservation, and thanked them for their accomplishments.

Representative Awana recognized members of Hawaiian music royalty, the late Mr. John Kapualani Koko, Mr. Louis "Moon" Kauakahi and Mr. Jerome Kaleolani Koko, and acknowledged past members of the Makaha Sons, including Mr. Jerry Koko, Mr. Israel "Iz" Kamakawiwoole, Mr. Henry Kaleialoha "Skippy" Kamakawiwoole, Mr. Abraham Nahulu, Mr. Melvin Amina and Mr. Sam Gray.

Representative Awana then introduced the honoree who was seated on the Floor of the House:

Mr. Jerome Kaleolani Koko.

Representative Carroll recognized the Makaha Sons Foundation, which presents scholarships to graduating High School Seniors and contributes to various organizations, and introduced family members of the late John Koko, who were seated on the Floor of the House:

Mrs. Yolanda Koko, wife of John Koko;  
Mrs. Kealo Koko Simpson, daughter of John Koko; and  
Mr. Shadow Koko, son of John Koko.

Representative Awana shared a message of thanks with the members of the Mahaka Sons of Niihau.

The motion was put to vote by the Chair and carried, and H.R. No. 215 was adopted, with Representative Ward being excused.

At 12:34 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 1:07 o'clock p.m.

#### UNFINISHED BUSINESS

Representative Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1400) recommending that S.B. No. 472, SD 1, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

Representative Saiki moved that notwithstanding the recommendations contained in Standing Committee Report No. 1400, that S.B. No. 472, SD

1, HD 1 be recommitted to the Committee on Judiciary, seconded by Representative Awana.

The motion was put to vote by the Chair and carried, and S.B. No. 472, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MARIJUANA," was recommitted to the Committee on Judiciary, with Representative Ito being excused.

#### REPORTS OF STANDING COMMITTEES

Representative Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1401) recommending that H.C.R. No. 10, as amended in HD 1, be adopted.

Representative Saiki moved that the report of the Committee be adopted, and that H.C.R. No. 10, HD 1 be adopted, seconded by Representative Awana.

Representative McDermott rose and asked that the Clerk record a no vote for him, and the Chair "so ordered."

Representative Ward rose to speak in support of the measure with reservations, stating:

"Mr. Speaker, I rise with reservations and a point of clarification. Mr. Speaker, the way that the title of this reso is listing just corporations implying that this is only against corporations, it's also including unions. Mr. Speaker, the history of banning corporate funds goes back to 1907, and the history of banning unions funding and political contest goes to 1947. This is all in a book called *Money in Politics*, written in 2003 at USAID by somebody called Gene Ward.

"The point being, this bill makes it look like this is only corporations. Unions are corporations, and the way it's written by the author it makes it look like this is corporate America, not big-buck America which means both corporate and union. With that clarification I think it would be a more honest, genuine attempt to say, yeah we don't want Super PACs, we don't want money to flood, to buy us, to push aside the small guy. But the way it's written it makes it look like it's the corporate and it's very biased and it's unfair. Thank you, Mr. Speaker."

Representative Fale rose to speak in opposition to the measure, stating:

"Mr. Speaker, in opposition. Mr. Speaker, this just doesn't go far enough to go towards getting rid of all the special interests that really kind of dabble in the politics, which kind of has cast a shadow over the entire elected process in the United States of America. This is something that needs to be expanded further, not just target specific areas but needs to be broader in its scope to address all special interests that unduly influence the election process, Mr. Speaker. For those reasons, I would like to see the measure broaden to include all special interests. For those reasons, Mr. Speaker, I'm opposed."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.C.R. No. 10, HD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE UNITED STATES CONGRESS TO PROPOSE A CONSTITUTIONAL AMENDMENT TO OVERTURN THE UNITED STATES SUPREME COURT'S HOLDING RELATING TO CORPORATE INDEPENDENT EXPENDITURES IN CITIZENS UNITED V. FEDERAL ELECTION COMMISSION," was adopted, with Representatives Fale and McDermott voting no, and with Representative Ito being excused.

Representative Lee, for the Committee on Energy & Environmental Protection, presented a report (Stand. Com. Rep. No. 1402) recommending that H.R. No. 173 be adopted.

On motion by Representative Saiki, seconded by Representative Awana and carried, the report of the Committee was adopted and H.R. No. 173, entitled: "HOUSE RESOLUTION URGING THE GOVERNOR TO FACILITATE THE DEPLOYMENT OF RENEWABLE-ENERGY TECHNOLOGIES, INCLUDING WASTE-TO-ENERGY, IN HAWAII

AND TO ATTRACT FOREIGN DIRECT INVESTMENT AND INTERNATIONAL TRADE FROM THE REPUBLIC OF KOREA," was adopted, with Representative Ito being excused.

Representative Lee, for the Committee on Energy & Environmental Protection, presented a report (Stand. Com. Rep. No. 1403) recommending that H.C.R. No. 239 be adopted.

On motion by Representative Saiki, seconded by Representative Awana and carried, the report of the Committee was adopted and H.C.R. No. 239, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE GOVERNOR TO FACILITATE THE DEPLOYMENT OF RENEWABLE-ENERGY TECHNOLOGIES, INCLUDING WASTE-TO-ENERGY, IN HAWAII AND TO ATTRACT FOREIGN DIRECT INVESTMENT AND INTERNATIONAL TRADE FROM THE REPUBLIC OF KOREA," was adopted, with Representative Ito being excused.

### SUSPENSION OF RULES

On motion by Representative Awana, seconded by Representative Fukumoto and carried, the rules were suspended for the purpose of considering certain Senate Bills for Third Reading by consent calendar. (Representative Ito was excused.)

### THIRD READING

#### S.B. No. 54, SD 1, HD 1:

On motion by Representative Saiki, seconded by Representative Awana and carried, S.B. No. 54, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AGING," passed Third Reading by a vote of 50 ayes, with Representative Ito being excused.

#### S.B. No. 286, SD 1, HD 1:

Representative Saiki moved that S.B. No. 286, SD 1, HD 1 pass Third Reading, seconded by Representative Awana.

Representative Ichiyama rose in support of the measure with reservations and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Ichiyama's written remarks are as follows:

"Mr. Speaker, I support this bill with serious reservations.

"I understand the intent behind the bill is to clarify the definition of a 'permanent resident' for the purposes of reapportionment. These two words have created much debate, both in this building and for more than one Commission on Reapportionment. I support the attempt to redefine 'permanent resident' to include members of the military stationed in Hawaii. Our service members and their families live and work in Hawaii, their children attend our schools, they drive on our roads and use many of our public services. They deserve to be counted and to have a say in their state and local government.

"My reservations arise from the testimony of Attorney General David M. Louie to the Committee on Judiciary, dated March 12, 2013. The Attorney General expressed 'strong concerns' about this bill. His legal analysis leads me to believe that this bill, should it be signed into law, may be declared unconstitutional. His testimony cites to the decision of the Hawaii State Supreme Court in *State v. Kahlbaun*, 64 Haw. 197, 206, 638 P.2d 309, 317 (1981), which states, '[a] legislative construction implementing a constitutional amendment cannot produce an absurd result or be inconsistent with the purposes and policy of the amendment.'

"The record of the constitutional amendment inserting the phrase 'permanent resident' did not contemplate inclusion of the military. This bill would produce an inconsistent and contrary result to the purposes and policy of the original amendment. If we truly want to accomplish the goal

of including the military in the reapportionment of our legislative districts, we should do it the right way, through a constitutional amendment. Then the voters would be able to exercise their constitutional right to approve amendments of the Hawaii State Constitution.

"Thank you very much, Mr. Speaker."

Representative Takai rose to disclose a potential conflict of interest, stating:

"Thank you, Mr. Speaker. I request on a ruling on a potential conflict. I'm a plaintiff to a federal lawsuit. Thank you," and the Chair ruled, "no conflict."

The motion was put to vote by the Chair and carried, and S.B. No. 286, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO REAPPORTIONMENT," passed Third Reading by a vote of 47 ayes to 3 noes, with Representatives Coffman, Jordan and McKelvey voting no, and with Representative Ito being excused.

#### S.B. No. 6, SD 1, HD 1:

On motion by Representative Saiki, seconded by Representative Awana and carried, S.B. No. 6, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ANIMAL CRUELTY," passed Third Reading by a vote of 50 ayes, with Representative Ito being excused.

At 1:15 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 54, SD 1, HD 1  
S.B. No. 286, SD 1, HD 1  
S.B. No. 6, SD 1, HD 1

### ANNOUNCEMENTS

Representative Thielen: "Thank you, Mr. Speaker. Just a friendly reminder again about Friday, 14th Annual Hemp Aloha Friday. And if Members would wear natural fibers as much as they can. Thank you."

Representative Tokioka: "Thank you, Mr. Speaker. Mr. Speaker, on behalf of the Kauai delegation, one of our Member's mom is having surgery at Queen's right now, so if we could all say a prayer for the Representative from District 14. Thank you very much."

Representative McKelvey, for the Committee on Consumer Protection & Commerce, requested a waiver of the 48-hour advanced notice requirement for the purpose of decision-making on the following measure today, April 3, 2013, at 2:15 p.m. in Conference Room 325, and the Chair "so ordered."

"Senate Bill 586, SD 1, HD 1, Relating to Agricultural Building Permits, which provides under certain circumstances an exemption for building code and permit requirements for non-residential buildings or structures. We're requesting the waiver to reconsider action previously taken by the committee because we believe we have concurrence among the parties to move the bill."

Representative Brower: "Mr. Speaker, just on a lighter note, one of our colleagues is celebrating his birthday today. One of five Aries in the House. I consider this gentleman a friend, occasionally. To many people he's a sharp dresser. To many, many, many more people he is not a sharp dresser. Compared to my buddy the Vice Speaker, I find the birthday boy's choice of suits unimaginative and one day I hope we honor him with the title 'LMG Chair Emeritus.' May we please recognize Representative Nishimoto?"

**COMMITTEE REASSIGNMENTS**

The following measures were re-referred to committee by the Speaker:

**H.R.****Nos.****Re-referred to:**

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|-----|---|
| 121 | Committee on Veterans, Military, & International Affairs, & Culture and the Arts                                  |
| 150 | Jointly to the Committee on Energy & Environmental Protection and the Committee on Consumer Protection & Commerce |

**H.C.R.****Nos.****Re-referred to:**

- |     |   |
|-----|---|
| 152 | Committee on Veterans, Military, & International Affairs, & Culture and the Arts                                  |
| 189 | Jointly to the Committee on Energy & Environmental Protection and the Committee on Consumer Protection & Commerce |

**S.B.****No.****Re-referred to:**

- |              |                     |
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| 1138,<br>HD1 | Committee on Health |
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**ADJOURNMENT**

At 1:18 o'clock p.m., on motion by Representative Awana, seconded by Representative Fukumoto and carried, the House of Representatives adjourned until 12:00 o'clock noon tomorrow, Thursday, April 4, 2013. (Representative Ito was excused.)

**HOUSE COMMUNICATIONS**

House Communication dated April 3, 2013, from Brian L. Takeshita, Chief Clerk of the House of Representatives, to the Honorable President and Members of the Senate, informing the Senate that the House has disagreed to the amendments made by the Senate to the following measure:

H.B. No. 879, HD 2, SD 1