

THIRTY-FOURTH DAY

Monday, March 17, 2003

The Senate of the Twenty-Second Legislature of the State of Hawaii, Regular Session of 2003, convened at 11:41 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by Pastor Marla Wade, New Grace Christian Fellowship, after which the Roll was called showing all Senators present with the exception of Senator Kanno who was excused.

The President announced that he had read and approved the Journal of the Thirty-Third Day.

Senator Kawamoto introduced Wendy Hamilton, National President of Mothers Against Drunk Driving (MADD), and commended her on her efforts and accomplishments to reduce drunk driving tragedies through education, legislation, and passionate advocacy. Accompanying the honoree was her husband, Larry, and Carol McNamee, founder of MADD-Hawaii.

At 11:46 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:50 o'clock a.m.

HOUSE COMMUNICATION

Hse. Com. No. 295, transmitting H.C.R. No. 36, which was adopted by the House of Representatives on March 14, 2003, was read by the Clerk and was placed on file.

By unanimous consent, H.C.R. No. 36, entitled: "HOUSE CONCURRENT RESOLUTION ACKNOWLEDGING THE CONTRIBUTIONS OF HULA AND RECOGNIZING APRIL 1, 2003, TO MARCH 31, 2004, AS THE 'YEAR OF THE HULA,'" was placed on file.

STANDING COMMITTEE REPORTS

Senator Baker, for the Committee on Health, presented a report (Stand. Com. Rep. No. 1022) recommending that the Senate advise and consent to the nomination of CHIYOME L. FUKINO, MD, as Director of the Department of Health, in accordance with Gov. Msg. No. 9.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1022 and Gov. Msg. No. 9 was deferred until Tuesday, March 18, 2003.

Senator Kim, for the Committee on Tourism, presented a report (Stand. Com. Rep. No. 1023) recommending that S.C.R. No. 24 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1023 and S.C.R. No. 24, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING HAWAII'S HOTELS TO PROVIDE FACILITIES FOR EMAIL AND INTERNET ACCESS FOR THEIR GUESTS," was deferred until Tuesday, March 18, 2003.

ORDER OF THE DAY

HOUSE COMMUNICATIONS

MATTERS DEFERRED FROM
FRIDAY, MARCH 14, 2003

H.C.R. No. 20 (Hse. Com. No. 290):

By unanimous consent, action on H.C.R. No. 20, entitled: "HOUSE CONCURRENT RESOLUTION AFFIRMING THE LEGISLATURE'S COMMITMENT TO HUMAN RIGHTS, CIVIL LIBERTIES, AND ALL PROTECTIONS GUARANTEED BY THE CONSTITUTIONS OF THE UNITED STATES AND THE STATE OF HAWAII, AND OTHER INTERNATIONAL CHARTERS AND COVENANTS," was deferred until Tuesday, March 18, 2003.

H.C.R. No. 22, H.D. 1 (Hse. Com. No. 291):

By unanimous consent, action on H.C.R. No. 22, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION STRONGLY URGING THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY TO CONSIDER PROPOSALS THAT ARE CONSISTENT WITH THE UNITED STATES' NATIONAL INTERESTS AND ARE RESPONSIVE TO HOMELAND SECURITY CONCERNS TO RELAX THE RESTRICTIONS ON THE GRANTING OF NONIMMIGRANT VISAS TO NATIONALS OF THE PEOPLE'S REPUBLIC OF CHINA FOR THE PURPOSE OF BUSINESS, TOURISM, AND STUDY IN THE UNITED STATES," was deferred until Tuesday, March 18, 2003.

H.C.R. No. 28 (Hse. Com. No. 292):

By unanimous consent, action on H.C.R. No. 28, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING CONGRESS TO FULLY FUND THE MILLENNIUM CHALLENGE ACCOUNT AND INVOLVE WOMEN AS FULL AND ACTIVE PARTICIPANTS IN ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS IN THEIR NATIONS," was deferred until Tuesday, March 18, 2003.

H.C.R. No. 35 (Hse. Com. No. 293):

By unanimous consent, action on H.C.R. No. 35, entitled: "HOUSE CONCURRENT RESOLUTION SUPPORTING THE PACIFIC BASIN ECONOMIC COUNCIL AND ENCOURAGING IT TO MAINTAIN ITS HEADQUARTERS IN HAWAII," was deferred until Tuesday, March 18, 2003.

H.C.R. No. 52, H.D. 1 (Hse. Com. No. 294):

By unanimous consent, action on H.C.R. No. 52, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION ESTABLISHING A SISTER STATE-PREFECTURE RELATIONSHIP BETWEEN THE STATE OF HAWAII OF THE UNITED STATES OF AMERICA AND THE EHIME PREFECTURE OF JAPAN," was deferred until Tuesday, March 18, 2003.

ADVISE AND CONSENT

MATTER DEFERRED FROM
THURSDAY, MARCH 13, 2003

Stand. Com. Rep. No. 1016 (Gov. Msg. No. 4):

Senator Menor moved that Stand. Com. Rep. No. 1016 be received and placed on file, seconded by Senator Baker and carried.

Senator Menor then moved that the Senate advise and consent to the nomination of MARK RECKTENWALD as Director of the Department of Commerce and Consumer

Affairs, term to expire December 4, 2006, seconded by Senator Baker.

Senator Menor rose to speak in support of the nominee and said:

“Mr. President, I rise in support of Gov. Msg. No. 4.

“It is indeed an honor and a privilege for me to speak in support of the confirmation of Mark Recktenwald as Director of the Department of Commerce and Consumer Affairs. Mr. President, when a newspaper reporter asked me what I thought about Mark Recktenwald’s appointment as DCCA director shortly after Governor Lingle nominated him for the position, I must confess that in one of the rare moments in my dealing with the news media, I didn’t have much to say. I had never met Mark, I didn’t know much about his background, and I took the position that I would reserve judgment and keep an open mind about his nomination over the coming weeks.

“However, in the time that I have had to work with him in his capacity as the Acting Director of DCCA, he has made a very favorable impression, and I am confident he will provide effective leadership for the department.

“His educational and professional backgrounds are quite impressive. He graduated magna cum laude from Harvard University in 1978 and in 1986 received his J.D. degree with honors from the University of Chicago Law School. His legal experience includes a clerkship with Chief United States District Judge Harold Fong, five years in private practice, and nine years with the Office of the United States Attorney where he received the Inspector General’s Integrity Award.

“As an attorney in private practice, he handled a variety of business and antitrust matters normally assigned to more senior attorneys. As a Deputy United States Attorney, Mr. Recktenwald successfully prosecuted cases involving financial and regulatory crimes, including cases of health care fraud.

“Mr. President, numerous supporters attested to his outstanding administrative skills, which enabled him to coordinate and lead a variety of task forces and working groups that included a large and diverse cross section of individuals from county, state, and federal agencies, as well as the private sector.

“Your Committee received unanimous and unequivocal testimony in support of Mr. Recktenwald’s professional skills and personal qualities. Time and time again, he was described as intelligent, hardworking, honest, ethical, fair, and compassionate. In fact, one colleague, who has known the nominee for almost twenty years, stated, ‘Mark treats everyone with dignity and respect. He listens carefully to all viewpoints and is prudent in making decisions. He will not yield to improper influences and is committed to doing what is right, rather than what is expedient. I am also confident that he will bring a balanced perspective as DCCA director, focusing on the concerns of business and at the same time protecting the interests of consumers in carrying out his regulatory duties and responsibilities.’

“In addition to his impressive credentials, Mark is also a genuinely nice person. It has been said that ‘nice guys finish last,’ but not so today, Mr. President. Accordingly, I ask my colleagues to join me in confirming Mark Recktenwald to the position of the Department of Commerce and Consumer Affairs Director.

“Thank you.”

Senator Hemmings rose to speak in favor of the nominee and said:

“Mr. President, I rise to speak in favor of Gov. Msg. No. 4, the nomination of Mark Recktenwald to head the DCCA.

“The previous speaker, the good Senator from Mililani, has done an excellent job, as all your Committee Chairs have done through the advice and consent process, in articulating these individuals and their qualifications to be in office. And it’s difficult to add to it, but I think there’s a perspective that’s quite a breath of fresh air that should be brought to bear in voting on this nomination.

“Mark Recktenwald, I think, represents a new breed of leaders in the executive branch of government. Recently in the good Senator from Manoa’s Ways and Means Committee hearing, Mark appeared to testify on legislation concerning special funds. And as we well know, most of the DCCA is a special fund to a certain extent and we also know that they have had a lot of excessive money collected by what some of us agree are excessive fees. Mark unilaterally expressed the opinion that some money can be restored from DCCA into the general fund to help the taxpayers of this State out, and further, to help the consumers out, which this agency is supposed to protect, that possibly in the future, fees could be reduced.

“This is the type of leadership and innovation that I think this State can really rely on and I guarantee that leadership like this, working in partnership with the Legislature, is indeed going to change the direction this State goes in.

“It’s with great pleasure that I add, along with my colleagues, the endorsement and support of Mark Recktenwald for this office. Thank you, Mr. President.”

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

Ayes, 24. Noes, none. Excused, 1 (Kanno).

At this time, Senator Menor introduced Mr. Recktenwald and his family to the members of the Senate.

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

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

THIRD READING

H.B. No. 564, S.D. 1:

Senator Hanabusa moved that H.B. No. 564, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Chun Oakland.

Senator Taniguchi rose and said:

“Mr. President, will you please note my reservations on this measure.”

The Chair so ordered.

Senator Ihara rose with reservations and said:

“Mr. President, I have reservations on this bill in favor.”

The Chair so ordered.

Senator Hooser requested his vote be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, H.B. No. 564, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PROMOTION OF CONTROLLED SUBSTANCES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (Kanno, Kim, Whalen).

H.B. No. 652:

On motion by Senator Hanabusa, seconded by Senator Chun Oakland and carried, H.B. No. 652, entitled: "A BILL FOR AN ACT RELATING TO STATUTORY REVISION: AMENDING, REENACTING, OR REPEALING VARIOUS PROVISIONS OF THE HAWAII REVISED STATUTES AND THE SESSION LAWS OF HAWAII FOR THE PURPOSE OF CORRECTING ERRORS AND REFERENCES, CLARIFYING LANGUAGE, AND DELETING OBSOLETE OR UNNECESSARY PROVISIONS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (Kanno, Kim, Whalen).

ADOPTION OF RESOLUTION

MATTER DEFERRED FROM FRIDAY, MARCH 14, 2003

Stand. Com. Rep. No. 1021 (S.C.R. No. 8):

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the joint report of the Committees was adopted and S.C.R. No. 8, entitled: "SENATE CONCURRENT RESOLUTION EXPRESSING SUPPORT FOR A WOMEN'S HEALTH PLATFORM THAT RECOGNIZES SERIOUS INEQUITIES IN THE HEALTH PREVENTION AND TREATMENT OF WOMEN, AND CALLS FOR THE ELIMINATION OF THESE INEQUITIES TO IMPROVE THE HEALTH STATUS OF WOMEN IN HAWAII," was adopted.

REFERRAL OF SENATE CONCURRENT RESOLUTIONS

The President made the following committee assignments of concurrent resolutions that were offered on Tuesday, March 11, 2003 and Wednesday, March 12, 2003:

Senate
Concurrent
Resolution Referred to:

No. 78 Jointly to the Committee on Education and the Committee on Human Services

No. 79 Jointly to the Committee on Science, Arts, and Technology and the Committee on Education

No. 80 Jointly to the Committee on Judiciary and Hawaiian Affairs and the Committee on Transportation, Military Affairs, and Government Operations

No. 81 Committee on Commerce, Consumer Protection and Housing, then to the Committee on Ways and Means

No. 82 Jointly to the Committee on Water, Land, and Agriculture and the Committee on Education, then to the Committee on Ways and Means

No. 83 Jointly to the Committee on Health and the Committee on Education

No. 84 Committee on Commerce, Consumer Protection and Housing, then to the Committee on Ways and Means

No. 85 Committee on Judiciary and Hawaiian Affairs

No. 86 Committee on Judiciary and Hawaiian Affairs

No. 87 Committee on Ways and Means

No. 88 Committee on Energy and Environment

No. 89 Committee on Commerce, Consumer Protection and Housing, then to the Committee on Ways and Means

No. 90 Jointly to the Committee on Education and the Committee on Labor

No. 91 Committee on Labor

No. 92 Committee on Education

No. 93 Committee on Human Services

No. 94 Committee on Human Services

No. 95 Committee on Commerce, Consumer Protection and Housing, then to the Committee on Ways and Means

No. 96 Committee on Commerce, Consumer Protection and Housing

No. 97 Committee on Commerce, Consumer Protection and Housing, then to the Committee on Ways and Means

No. 98 Committee on Economic Development

No. 99 Committee on Transportation, Military Affairs, and Government Operations

No. 100 Committee on Transportation, Military Affairs, and Government Operations

No. 101 Committee on Transportation, Military Affairs, and Government Operations

No. 102 Jointly to the Committee on Water, Land, and Agriculture and the Committee on Energy and Environment

REFERRAL OF SENATE RESOLUTIONS

The President made the following committee assignments of resolutions that were offered on Tuesday, March 11, 2003 and Wednesday, March 12, 2003:

Senate Resolution Referred to:

No. 53 Jointly to the Committee on Education and the Committee on Human Services

No. 54 Jointly to the Committee on Science, Arts, and Technology and the Committee on Education

No. 55 Jointly to the Committee on Judiciary and Hawaiian Affairs and the Committee on Transportation, Military Affairs, and Government Operations

No. 56 Committee on Education

No. 57 Committee on Commerce, Consumer Protection and Housing, then to the Committee on Ways and Means

No. 58 Jointly to the Committee on Health and the Committee on Education

No. 59 Committee on Judiciary and Hawaiian Affairs

No. 60 Committee on Judiciary and Hawaiian Affairs

No. 61 Committee on Ways and Means

No. 62 Committee on Energy and Environment

No. 63 Committee on Commerce, Consumer Protection and Housing, then to the Committee on Ways and Means

No. 64 Committee on Labor

No. 65 Committee on Education

No. 66 Committee on Commerce, Consumer Protection and Housing, then to the Committee on Ways and Means

No. 67 Committee on Economic Development

No. 68 Committee on Transportation, Military Affairs, and Government Operations

No. 69 Committee on Transportation, Military Affairs, and Government Operations

No. 70 Committee on Transportation, Military Affairs, and Government Operations

RE-REFERRAL OF SENATE CONCURRENT RESOLUTION

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

Senate Concurrent Resolution Referred to:

No. 73 Jointly to the Committee on Economic Development and the Committee on Water, Land, and Agriculture

ADJOURNMENT

At 12:17 o'clock p.m., on motion by Senator Kawamoto, seconded by Senator Hogue and carried, the Senate adjourned until 11:30 o'clock a.m., Tuesday, March 18, 2003.

Respectfully submitted,

Clerk of the Senate

Approved:

President of the Senate

RE-REFERRAL OF HOUSE BILL

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

House Bill Referred to:

No. 1029, H.D. 1 Committee on Judiciary and Hawaiian Affairs, then jointly to the Committee on Transportation, Military Affairs, and Government Operations and the Committee on Ways and Means