

## FORTY-SECOND DAY

Friday, March 28, 2003

The Senate of the Twenty-Second Legislature of the State of Hawaii, Regular Session of 2003, convened at 11:43 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by Pastor Max Wilkins, New Hope Christian Fellowship, Oahu, after which the Roll was called showing all Senators present with the exception of Senators Kawamoto and Kim who were excused.

The President announced that he had read and approved the Journal of the Forty-First Day.

Senator Fukunaga, with the assistance of Senators Chun Oakland and Taniguchi, introduced Darah Dung and congratulated her on being crowned Miss Chinatown Hawaii 2003 and for capturing the title of Miss Chinatown USA 2003. Accompanying the honoree was First Princess Kimberly Lum.

Senator Menor, on behalf of President Bunda and himself, congratulated the Mililani High School Boys Soccer Team on winning its third consecutive High School Athletic Association Boys Varsity Soccer Championship Title and introduced the following coaches and players: Head Coach Jeff Yamamoto; Assistant Coaches Norman Beter, Steve McGehee and Tony Hart; and team captains Whitney Shimatsu, Nathan Amous and Brent Murakami.

At 12:00 o'clock noon, the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:07 o'clock p.m.

## MESSAGE FROM THE GOVERNOR

Gov. Msg. No. 250, dated March 19, 2003, transmitting the following revised declarations that coincide with adjustments to H.B. No. 200: Declaration of Findings on the General Obligation Debt Limit and The State Aggregate General Fund Expenditure Ceiling and the Executive Branch Appropriation Ceiling Declarations, prepared by the Director of Finance, was read by the Clerk and was placed on file.

## HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 301 to 303) were read by the Clerk and were disposed of as follows:

Hse. Com. No. 301, returning S.B. No. 554, which passed Third Reading in the House of Representatives on March 27, 2003, was placed on file.

Hse. Com. No. 302, returning S.B. No. 1058, S.D. 1, which passed Third Reading in the House of Representatives on March 27, 2003, in an amended form, was placed on file.

On motion by Senator Tsutsui, seconded by Senator Hogue and carried, the Senate disagreed to the amendments proposed by the House to S.B. No. 1058, S.D. 1, and requested a conference on the subject matter thereof.

Hse. Com. No. 303, transmitting H.C.R. No. 62, H.D. 1, which was adopted by the House of Representatives on March 27, 2003, was placed on file.

By unanimous consent, action on H.C.R. No. 62, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE OFFICE OF THE GOVERNOR TO DETERMINE THE IMPACT OF THE COMPACT OF FREE ASSOCIATION ON THE STATE OF HAWAII, AND REQUESTING HAWAII'S CONGRESSIONAL DELEGATION TO INTRODUCE LEGISLATION IN CONGRESS CALLING FOR FURTHER REVIEW OF THE MIGRATION ISSUE AND FOR INCREASED AID FOR THE EDUCATIONAL AND SOCIAL IMPACT OF THE COMPACT, AND ANY NEWLY RENEGOTIATED COMPACT, ON THE STATE OF HAWAII," was deferred until Monday, March 31, 2003.

## STANDING COMMITTEE REPORTS

Senator Menor, for the Committee on Commerce, Consumer Protection and Housing, presented a report (Stand. Com. Rep. No. 1216) recommending that S.C.R. No. 33, as amended in S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1216 and S.C.R. No. 33, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION URGING THE STATE TO PURSUE LITIGATION AGAINST CHEVRONTEXACO FOR NONPAYMENT OF TAXES," was deferred until Monday, March 31, 2003.

Senator Menor, for the Committee on Commerce, Consumer Protection and Housing, presented a report (Stand. Com. Rep. No. 1217) recommending that S.R. No. 21, as amended in S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1217 and S.R. No. 21, S.D. 1, entitled: "SENATE RESOLUTION URGING THE STATE TO PURSUE LITIGATION AGAINST CHEVRONTEXACO FOR NONPAYMENT OF TAXES," was deferred until Monday, March 31, 2003.

Senators Kim and Fukunaga, for the Committee on Tourism and the Committee on Economic Development, presented a joint report (Stand. Com. Rep. No. 1218) recommending that S.C.R. No. 42, as amended in S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1218 and S.C.R. No. 42, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE HAWAII TOURISM AUTHORITY TO DESIGN, IMPLEMENT, AND EVALUATE A CULTURAL TELEVISION AND FILM PILOT PROJECT," was deferred until Monday, March 31, 2003.

## ORDER OF THE DAY

REFERRAL OF  
HOUSE CONCURRENT RESOLUTIONMATTER DEFERRED FROM  
THURSDAY, MARCH 27, 2003

The President made the following committee assignment of a House concurrent resolution that was received on Tuesday, March 25, 2003:

House Concurrent Resolution	Referred to:
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No. 64 Committee on Transportation, Military Affairs, and Government Operations

### ADVISE AND CONSENT

Stand. Com. Rep. No. 1214 (Gov. Msg. No. 228):

Senator Taniguchi moved that Stand. Com. Rep. No. 1214 be received and placed on file, seconded by Senator Kokubun and carried.

Senator Taniguchi then moved that the Senate advise and consent to the nomination of KURT K. KAWAFUCHI as Director of the Department of Taxation, term to expire December 4, 2006, seconded by Senator Kokubun.

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

“Mr. President, I rise to speak in favor of this nomination.

“Mr. President and members, Mr. Kawafuchi is well qualified for the position of Director of Taxation. He received his Juris Doctorate and Masters in Business Administration degree from Santa Clara University. He also holds a Master of Laws in Taxation degree from Georgetown University. Additionally, Mr. Kawafuchi is licensed to practice law in Hawaii and California and holds Certified Public Accountant status in both states.

“The Committee on Ways and Means held a thorough hearing on this nominee. Mr. Kawafuchi received wholehearted endorsements from both the legal and accountancy communities, including a judge from the United States Tax Court, the Hawaii Society of Certified Public Accountants, the former head of the Department of Taxation and the Hawaii State Bar Association. All cited Mr. Kawafuchi’s intelligence, thorough knowledge of the law, and leadership ability. They also commented on his high ethics, enthusiasm and sense of humor.

“Members, I believe that Mr. Kurt Kawafuchi will serve the State and the people of Hawaii well in his role as Director of Taxation. I urge you to support his nomination today.

“Thank you.”

Senator Slom also rose in support as follows:

“Mr. President, on behalf of your Minority Caucus, we, too, give our total support to Mr. Kawafuchi’s advise and consent.

“I echo the statements made by the Ways and Means Committee Chair. Also, we’d like to say that even though he’s not as attractive as the beauty queens that we just had the honor of meeting, his beauty is an inner beauty, and what can you say about somebody that is an attorney, is a CPA, and is going to do our taxes as well.

“You know that your Minority Caucus has been very hard on tax measures and on tax professionals, but we feel that Mr. Kawafuchi has not only the background and the experience, but as the Ways and Means Chair said and as people said at his confirmation hearing, the ethics and the integrity. And to me, we can look at a person’s qualifications and all of their degrees and everything else, but I think, to me, the telling point was people that came forward to spend some time in our committee hearing to tell us about the other side of Kurt Kawafuchi. We can talk about your expertise and your technical abilities, but they talked about his humanity, his sensitivity, his leadership, and his availability in the community, and the fact that he is

somebody that always volunteers to do things but is not out in front to get the credit or anything else.

“These are the kinds of people that reflect positively on all of us in government today. These are the kinds of people that we wholeheartedly support. And for those and other reasons, we wholeheartedly support Mr. Kawafuchi.

“Thank you, Mr. President.”

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

Ayes, 21. Noes, none. Excused, 4 (Ihara, Inouye, Kawamoto, Kim).

At this time, Senator Taniguchi introduced Mr. Kawafuchi to the members of the Senate. (Mr. Kawafuchi, who was seated in the gallery with family and friends, rose to be recognized.)

At 12:13 o’clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:17 o’clock p.m.

### ADOPTION OF RESOLUTIONS

#### MATTERS DEFERRED FROM THURSDAY, MARCH 27, 2003

Stand. Com. Rep. No. 1212 (S.C.R. No. 63, S.D. 1):

On motion by Senator Tsutsui, seconded by Senator Hogue and carried, the joint report of the Committees was adopted and S.C.R. No. 63, S.D. 1, entitled: “SENATE CONCURRENT RESOLUTION REQUESTING A STUDY ON RENOVATION AND RECONSTRUCTION OPTIONS AND THE FORMULATION OF A MASTER PLAN FOR ALOHA STADIUM,” was adopted.

Stand. Com. Rep. No. 1213 (S.R. No. 41, S.D. 1):

On motion by Senator Tsutsui, seconded by Senator Hogue and carried, the joint report of the Committees was adopted and S.R. No. 41, S.D. 1, entitled: “SENATE RESOLUTION REQUESTING A STUDY ON RENOVATION AND RECONSTRUCTION OPTIONS AND THE FORMULATION OF A MASTER PLAN FOR ALOHA STADIUM,” was adopted.

### MISCELLANEOUS COMMUNICATION

Misc. Com. No. 7, from the 2002 Legislative Salary Commission dated March 25, 2003, transmitting the Commission’s salary recommendations for the 2005 and future members of the Hawaii State Legislature, was read by the Clerk and was placed on file.

Senator Hemmings rose on a point of personal privilege as follows:

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

“One of the great luxuries we have in this country is our First Amendment rights to speak out on the issues, and I’m going to exercise that right today because, unfortunately, oftentimes the media does not get the entire story and misleads the general public. And that is my opinion of what happened in this morning’s Advertiser in their article regarding long-term care. My colleagues may have read it.

"I won't belabor the particulars on it and why most of the Minority opposition here at the Legislature stands against the long-term care plan as it is now presented, but what I will tell you is that the story did misrepresent, I think, the insurance industry.

"How so, you say? It reported my comments regarding the long-term care monopoly that this bill would create for state government in the business. It secondly reported that I felt that the legislation in favor of long-term care by state government was being held hostage by the long-term health care tax credit being included in the bill. That's true; that's exactly what I said. But what is misleading is, following that portion of the article, the reporter went on to say that the insurance industry spokesperson they had talked to supported the legislation also.

"I took the liberty of calling that individual, and after talking to him for quite a while, found out that he was very unaware of the particulars of the legislation and, quite frankly, was misinformed on the impact that it may have. At the end of the conversation, he did volunteer to me that he did get the association endorsement of part of the legislation. That led me to ask him, well, what are they supporting? And he said they're supporting the tax credit. I asked him then, well, how do they feel about the legislation to start a state funded and operated long-term health care insurance program? And he said the industry was opposed to it, and hence, my point of personal privilege.

"The story was extremely misleading in that the individual's support of the legislation did not reflect the industry's opposition along with most insurance agents. And I want the record to be perfectly clear on this issue because I do think that this Senate was very responsible in handling this issue last year. We must be very, very clear that the industry, as a whole, is prepared to address the problem of long-term care and it is opposing the section of the bill that is in front of us now that would allow for government to set up its own insurance program. I think this is very important for the purposes of decision-making based on accurate information.

"Thank you, Mr. President."

Senator Baker also rose and said:

"Mr. President, in the interest of full disclosure and accuracy, let me just correct one of the points that the good Senator just made. The proposal that's before your Ways and Means Committee and was before your Health and Human Services Committees that the Senate voted on previously, doesn't set up a government program. It is a program that is clearly paid for through the income tax that people file, but it will be administered, it will be created, it will be run by a third party administrator. It's not going to be run by a state bureaucracy. It is going to be in the private sector and I think that makes it very different than what the Senator just described.

"Thank you."

Senator Hemmings rose in rebuttal and said:

"Mr. President, I rise on a point of personal privilege in rebuttal.

"I do not want to get into a debate on the Floor of the Senate regarding the particulars of this issue, especially when it comes to semantics, but when I give my money to somebody, they control where it's spent. And that's exactly what this legislation does.

"This law also mandates how this would be operated and how it would be paid for, which is through the taxpayers' pocket – to government and by government. Therefore, it is controlled by government, even though it can be administered by the private sector.

"There's nothing in the future that this government would not control this program, could come in and change the rules, up the fees, change the terms on who it would apply to and who it would not apply to. Therefore, follow the money, follow the control, and clearly it's a government program.

"Thank you, Mr. President."

Senator Sakamoto rose on a point of personal privilege as follows:

"Mr. President, may I make a point on personal privilege?"

"I agree with the Senator from Waimanalo on the global point that many times the media doesn't give the correct picture. I am dismayed sometimes that we don't have the opportunity or a good opportunity to correct what is misconstrued. And not on the specific points of this issue, which is a very important issue, but many times I would hope the media would really verify what they're saying, as opposed to putting something out as fact when many times it's half a fact.

"Thank you."

**ADJOURNMENT**

At 12:24 o'clock p.m., on motion by Senator Tsutsui, seconded by Senator Hogue and carried, the Senate adjourned until 11:30 o'clock a.m., Monday, March 31, 2003.

Respectfully submitted,

Clerk of the Senate

Approved:

President of the Senate