

TWENTY-FIFTH DAY

Friday, March 5, 2010

The Senate of the Twenty-Fifth Legislature of the State of Hawai'i, Regular Session of 2010, convened at 11:35 a.m. with the President in the Chair.

The Divine Blessing was invoked by Pieper Toyama, Headmaster of Pacific Buddhist Academy, after which the Roll was called showing all Senators present with the exception of Senators Hemmings, Kim, Kokubun, and Tsutsui who were excused.

The President announced that she had read and approved the Journal of the Twenty-Fourth Day.

At this time, the following introductions were made to the members of the Senate:

Senator Ige introduced 22 students, teachers and officials from the Hawai'i-Okinawa Student Exchange Program. Teachers included Mr. Jun Shimada, Ms. Tatsuno Chinen, and Mr. Tamutso Miyagi. Officials included the Honorable Zenki Nakazato, Vice-Governor of the Prefecture of Okinawa; Mr. Seihachiro Kin, Superintendent Okinawa Prefecture Board of Education; Mr. Kenyu Yonaha, Deputy Councillor Prefecture School. Also recognized were the Hawai'i host students and longtime advocates and friends of the exchange program, as well as former Representative Arakaki and Jane Serikaku, Executive Director of the Hawaii United Okinawan Association.

Senator Taniguchi introduced Ryan Mizushima, one of the student hosts, and his mother Claire.

Senators Ige, Taniguchi, and Chun Oakland recognized and congratulated Mothers Against Drunk Driving (MADD) Hawai'i on the 25th anniversary of its founding. Representing MADD were Carol McNamee, MADD Founder; Jennifer L. Dotson, MADD State Executive Director; and Arkie Koehl, MADD Council President.

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

"In 1987, when I was Chairman of Judiciary, there was a time when many of the issues which were brought up by Senator Ige with regard to raising the age of drinking and other issues were talked about on the floor, on this very floor, along with other issues like drug paraphernalia and drug forfeiture and things like that, which we dealt with in the Committee. It was, though, at a time where the shorter Democrat running for governor was also on the Senate floor, as well as the shorter of all the governors of Hawai'i was also on the Senate floor at the time. And, being the liberal Democrats that they were sometimes, this was one of those issues where drug paraphernalia and raising the drinking age was difficult because the data would suggest—and Carol would vehemently say otherwise—that the drinking age problem was really in the 30s, as I recall, and not age 18 to 21.

"Regardless of the data, Senator Ige was absolutely right. Carol McNamee had the ability to change attitudes and behavior on the Senate floor because the year preceding raising the drinking age, Governor Cayetano said to the other Democrat running for governor, the shorter one, 'Neil, let's get something straight. Raising the drinking age going be the first bill we're going pass next year,' speaking as if he was the Senate President, which we all know he wasn't. Neil said, 'But why, Ben?' And he said, 'Because I refuse to face that woman the whole session knowing that at the end of the day, she's going to win.'

"I want to pay homage, on bended knee, to the only woman alive who could change the attitude and behavior of two short guys who did quite remarkably well in politics. Carol McNamee, I owe you. Thank you."

Senator Espero recognized and congratulated the Japanese Cultural Center of Hawaii for their continuing efforts to support the Hawaii Internment Project. Representing the Center were Brian Niiya, Director of Program Development and Resource Center; Jane Kurahara, Co-Manager of Resource Center and Co-Chair of Hawaii Confinement Sites Committee; Betsy Young, award-winning teacher, curriculum specialist, and librarian who served as Chair of the 2010 Day of Remembrance; Alan Rosenfeld, UH West O'ahu history professor who studied Italian and German internees at Honouliuli; and Curt Otaguro, Vice President at First Hawaiian Bank and incoming Chair of the JCCH Board of Directors. Also recognized were Allicyn Hikida Tasaka, JCCH COO/Director of Development & Communication; Ratanna Soubandith, member of JCCH Board of Governors; Jim and Yoshie Tanabe, JCCH members and legislative advocates; Helene Minehira, an evacuee from Puuloa, and her friend Taka Nishimoto.

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

The Senate reconvened at 12:06 p.m.

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 342 to 345) were read by the Clerk and were placed on file:

Gov. Msg. No. 342, dated January 26, 2010, transmitting a Report on the Development of a Plan for Increasing Aid and Assistance to Certified Organic Farmers, prepared by the Department of Agriculture pursuant to S.C.R. No 38 (2009).

Gov. Msg. No. 343, dated March 1, 2010, transmitting the 2009 Report of the Commission to Promote Uniform Legislation, prepared by the Department of the Attorney General.

Gov. Msg. No. 344, dated March 1, 2010, transmitting a Report on the Series of Discussions Convened by the Na Ala Hele Advisory Council on the Safe Use of Hunting Dogs on Trails that Cross Public Hunting Areas, prepared by the Department of Land and Natural Resources pursuant to H.C.R. No. 60 (2009).

Gov. Msg. No. 345, dated March 1, 2010, transmitting a Report on the Accounting of All Receipts from Lands Described in Section 5(f) of the Admission Act for Fiscal Year 2008-2009, prepared by the Department of Land and Natural Resources pursuant to Act 178, Section 5, SLH 2006.

DEPARTMENTAL COMMUNICATION

The following communication (Dept. Com. No. 75) was read by the Clerk and was placed on file:

Dept. Com. No. 75, from the County of Hawaii, Department of Environmental Management, dated February 24, 2010, transmitting the Kapoho Beach Lots, Farm Lots, and Vacationland Estates Wastewater Feasibility Report, pursuant to Act 223, SLH 2006.

HOUSE COMMUNICATION

The following communications from the House (Hse. Com. Nos. 254 to 258) were read by the Clerk and were disposed of as follows:

Hse. Com. No. 254, transmitting H.B. No. 2003, H.D. 3, which passed Third Reading in the House of Representatives on March 4, 2010, was placed on file.

On motion by Senator Sakamoto, seconded by Senator Slom and carried, H.B. No. 2003, H.D. 3, entitled: "A BILL FOR AN ACT RELATING TO CAMPAIGN FINANCING," passed First Reading by title and was referred to the Committee on Judiciary and Government Operations.

Hse. Com. No. 255, returning S.B. No. 2015, S.D. 1, which passed Third Reading in the House of Representatives on March 4, 2010, was placed on file.

Hse. Com. No. 256, returning S.B. No. 2017, which passed Third Reading in the House of Representatives on March 4, 2010, was placed on file.

Hse. Com. No. 257, returning S.B. No. 2812, S.D. 1, which passed Third Reading in the House of Representatives on March 4, 2010, was placed on file.

Hse. Com. No. 258, informing the Senate that on March 4, 2010, the House disagreed to the amendments proposed by the Senate to H.B. No. 2077, H.D. 1 (S.D. 1), was placed on file.

SENATE CONCURRENT RESOLUTIONS

The following concurrent resolutions (S.C.R. Nos. 147 to 157) were read by the Clerk and were deferred:

S.C.R. No. 147 "SENATE CONCURRENT RESOLUTION CONVENING A WORKING GROUP TO EXAMINE FARM TO SCHOOL MODELS."

Offered by: Senators Fukunaga, Tokuda, Baker, Hee, Ige, Ihara, Kokubun, Sakamoto, Takamine, Taniguchi.

S.C.R. No. 148 "SENATE CONCURRENT RESOLUTION SUPPORTING INCREASING FEDERAL REIMBURSEMENT RATES FOR SCHOOL MEALS."

Offered by: Senators Fukunaga, Tokuda, Baker, Hee, Ige, Ihara, Kokubun, Sakamoto, Takamine, Taniguchi.

S.C.R. No. 149 "SENATE CONCURRENT RESOLUTION URGING THE UNITED STATES DEPARTMENT OF AGRICULTURE TO ADOPT NUTRITIONAL GUIDELINES TO IMPROVE THE NUTRITIONAL QUALITY OF ALL SCHOOL MEALS."

Offered by: Senators Fukunaga, Tokuda, Baker, Hee, Ige, Ihara, Kokubun, Sakamoto, Takamine.

S.C.R. No. 150 "SENATE CONCURRENT RESOLUTION PROCLAIMING SEPTEMBER 26, 2010, AS MESOTHELIOMA AWARENESS DAY."

Offered by: Senators Gabbard, Chun Oakland, Baker, Bunda, Green, Hemmings, Ige, Kidani, Nishihara, Takamine.

S.C.R. No. 151 "SENATE CONCURRENT RESOLUTION REQUESTING THE DEVELOPMENT AND AIRING OF PUBLIC SERVICE ANNOUNCEMENTS ON COMMERCIAL PASSENGER AIR FLIGHTS TO THE STATE ON THE IMPORTANCE OF CARING FOR THE STATE'S UNIQUE AND FRAGILE ECOSYSTEM."

Offered by: Senators Gabbard, Chun Oakland, Kidani, Bunda, English, Espero, Fukunaga, Galuteria, Green, Ige, Nishihara, Takamine.

S.C.R. No. 152 "SENATE CONCURRENT RESOLUTION REQUESTING THE ESTABLISHMENT OF KIOSKS IN EACH STATE-OWNED AIRPORT DEDICATED TO CONSERVATION OUTREACH WITH INFORMATION ON THE IMPORTANCE OF CARING FOR THE STATE'S UNIQUE AND FRAGILE ECOSYSTEM."

Offered by: Senators Gabbard, Chun Oakland, Green, Kidani, Bunda, Espero, Galuteria, Hemmings, Ige, Nishihara, Takamine.

S.C.R. No. 153 "SENATE CONCURRENT RESOLUTION ENCOURAGING EACH COUNTY TO ENACT AN ORDINANCE TO PROVIDE REAL PROPERTY TAX EXEMPTIONS FOR VETERANS."

Offered by: Senator Hanabusa, by request.

S.C.R. No. 154 "SENATE CONCURRENT RESOLUTION URGING THE ESTABLISHMENT OF A NATIONAL HEALTH BOARD TO ENSURE QUALITY HEALTHCARE FOR ALL RESIDENTS OF THE UNITED STATES."

Offered by: Senator Hanabusa, by request.

S.C.R. No. 155 "SENATE CONCURRENT RESOLUTION REQUESTING THE ATTORNEY GENERAL TO REVIEW THE GUARDIANSHIP PROCESS WITH RESPECT TO THE ISSUE OF PATIENTS IN HOSPITALS WHO ARE WAITLISTED FOR POST-ACUTE CARE."

Offered by: Senator Taniguchi.

S.C.R. No. 156 "SENATE CONCURRENT RESOLUTION REQUESTING THE DIRECTOR OF HEALTH TO ENDORSE XYLITOL FOR ITS PREVENTIVE AND THERAPEUTIC HEALTH AND ORAL HEALTH BENEFITS."

Offered by: Senators Nishihara, Fukunaga, Ige, Ihara, Sakamoto.

S.C.R. No. 157 "SENATE CONCURRENT RESOLUTION URGING THE DEPARTMENT OF EDUCATION TO HIRE ARCHITECTS AND ENGINEERS TO WORK IN TEAMS TO INVESTIGATE THE CONDITION OF SCHOOL BUILDINGS AND INFRASTRUCTURE IN EACH SCHOOL COMPLEX AND TO DEVELOP A TWENTY-FIVE YEAR LONG-RANGE MAINTENANCE MANAGEMENT PLAN FOR EACH SCHOOL COMPLEX."

Offered by: Senators Nishihara, Fukunaga, Ige, Ihara, Sakamoto.

SENATE RESOLUTIONS

The following resolutions (S.R. Nos. 67 to 69) were read by the Clerk and were deferred:

S.R. No. 67 "SENATE RESOLUTION CONVENING A WORKING GROUP TO EXAMINE FARM TO SCHOOL MODELS."

Offered by: Senators Fukunaga, Tokuda, Baker, Hee, Ige, Ihara, Kokubun, Takamine, Taniguchi.

S.R. No. 68 "SENATE RESOLUTION SUPPORTING INCREASING FEDERAL REIMBURSEMENT RATES FOR SCHOOL MEALS."

Offered by: Senators Fukunaga, Tokuda, Baker, Hee, Ige, Ihara, Kokubun, Takamine.

S.R. No. 69 "SENATE RESOLUTION URGING THE UNITED STATES DEPARTMENT OF AGRICULTURE TO ADOPT NUTRITIONAL GUIDELINES TO IMPROVE THE NUTRITIONAL QUALITY OF ALL SCHOOL MEALS."

Offered by: Senators Fukunaga, Tokuda, Baker, Hee, Ige, Ihara, Kokubun, Takamine.

STANDING COMMITTEE REPORTS

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 2658) recommending that the Senate advise and consent to the nominations to the Contractors License Board of the following:

GERALD YAMADA, in accordance with Gov. Msg. No. 180; and

RANDALL B.C. LAU, in accordance with Gov. Msg. No. 236.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 2658 and Gov. Msg. Nos. 180 and 236 was deferred until Monday, March 8, 2010.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 2659) recommending that the Senate advise and consent to the nomination of MELANIE BILBAENO VALLEJOS DDS to the Board of Dental Examiners, in accordance with Gov. Msg. No. 181.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 2659 and Gov. Msg. No. 181 was deferred until Monday, March 8, 2010.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 2660) recommending that the Senate advise and consent to the nomination of LINDSEY JOHN KIMURA to the Board of Electricians and Plumbers, in accordance with Gov. Msg. No. 182.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 2660 and Gov. Msg. No. 182 was deferred until Monday, March 8, 2010.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 2661) recommending that the Senate advise and consent to the nomination of RHONDA C. SCOTT to the Board of Massage Therapy, in accordance with Gov. Msg. No. 185.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 2661 and Gov. Msg. No. 185 was deferred until Monday, March 8, 2010.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 2662) recommending that the Senate advise and consent to the nomination of DANNY MORITO TAKANISHI JR. to the Hawaii Medical Board, in accordance with Gov. Msg. No. 187.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 2662 and Gov. Msg. No. 187 was deferred until Monday, March 8, 2010.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 2663) recommending that the Senate advise and consent to the nominations to the State Board of Nursing of the following:

MATTHEW J. BISHOP, in accordance with Gov. Msg. No. 188;

STEPHEN A. KULA PhD, in accordance with Gov. Msg. No. 189; and

CECILIA P.S. MUKAI PhD, in accordance with Gov. Msg. No. 190.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 2663 and Gov. Msg. Nos. 188, 189, and 190 was deferred until Monday, March 8, 2010.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 2664) recommending that the Senate advise and consent to the nomination of CARLITO P. CALIBOSO to the Public Utilities Commission, in accordance with Gov. Msg. No. 192.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 2664 and Gov. Msg. No. 192 was deferred until Monday, March 8, 2010.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 2665) recommending that the Senate advise and consent to the nomination of FRANCES ALLISON TORRE GENDRANO to the Real Estate Commission, in accordance with Gov. Msg. No. 193.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 2665 and Gov. Msg. No. 193 was deferred until Monday, March 8, 2010.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 2666) recommending that the Senate advise and consent to the nomination of ELWOOD ICHIRO KITA to the Board of Veterinary Examiners, in accordance with Gov. Msg. No. 195.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 2666 and Gov. Msg. No. 195 was deferred until Monday, March 8, 2010.

Senator Hee, for the Committee on Water, Land, Agriculture, and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 2667) recommending that the Senate advise and consent to the nominations to the Commission on Water Resource Management of the following:

WILLIAM D. BALFOUR JR., in accordance with Gov. Msg. No. 234; and

WILLIAM D. BALFOUR JR., in accordance with Gov. Msg. No. 235.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 2667 and Gov. Msg. Nos. 234 and 235 was deferred until Monday, March 8, 2010.

Senator Hee, for the Committee on Water, Land, Agriculture, and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 2668) recommending that the Senate advise and consent to the nominations to the Island Burial Council, Islands of Kaua'i and Ni'ihau of the following:

JAMES WILFRED FUJITA, in accordance with Gov. Msg. No. 273; and

DEBRA U'ILANI RUIZ, in accordance with Gov. Msg. No. 274.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 2668 and Gov. Msg. Nos. 273 and 274 was deferred until Monday, March 8, 2010.

Senator Hee, for the Committee on Water, Land, Agriculture, and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 2669) recommending that the Senate advise and consent to the nomination of NOREEN R. OHAI-DANIELS to the Koke'e State Park Advisory Council, in accordance with Gov. Msg. No. 311.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 2669 and Gov. Msg. No. 311 was deferred until Monday, March 8, 2010.

Senator Hee, for the Committee on Water, Land, Agriculture, and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 2670) recommending that the Senate advise and consent to the nomination of ROBERT J. SHALLENBERGER to the Legacy Land Conservation Commission, in accordance with Gov. Msg. No. 312.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 2670 and Gov. Msg. No. 312 was deferred until Monday, March 8, 2010.

**ORDER OF THE DAY
ADVISE AND CONSENT**

Stand. Com. Rep. No. 2653 (Gov. Msg. No. 266):

Senator Chun Oakland moved that Stand. Com. Rep. No. 2653 be received and placed on file, seconded by Senator Ihara and carried.

Senator Chun Oakland then moved that the Senate advise and consent to the nomination of BEVERLY C. WONG to the Statewide Council on Independent Living, term to expire June 30, 2013, seconded by Senator Ihara.

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

Ayes, 19. Noes, none. Excused, 6 (Bunda, English, Hemmings, Kim, Kokubun, Tsutsui).

ADOPTION OF RESOLUTIONS

Stand. Com. Rep. No. 2654 (S.C.R. No. 21):

On motion by Senator Sakamoto, seconded by Senator Slom and carried, the report of the Committee was adopted and S.C.R. No. 21, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING PUBLIC AND PRIVATE SCHOOLS TO INCORPORATE MORE KINESTHETIC AND OTHER TYPES OF LEARNING INTO SCHOOL CURRICULA," was adopted.

Stand. Com. Rep. No. 2655 (S.C.R. No. 28, S.D. 1):

On motion by Senator Sakamoto, seconded by Senator Slom and carried, the report of the Committee was adopted and S.C.R. No. 28, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION ENCOURAGING THE DEPARTMENT OF EDUCATION TO EXPAND IMPLEMENTATION OF THE OFFER VERSUS SERVE CONCEPT TO ALL PUBLIC SCHOOLS IN THE STATE TO FURTHER REDUCE FOOD AND MILK WASTE," was adopted.

Stand. Com. Rep. No. 2656 (S.C.R. No. 94, S.D. 1):

On motion by Senator Sakamoto, seconded by Senator Slom and carried, the report of the Committee was adopted and S.C.R. No. 94, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING A REPORT ON TO THE ESTIMATED COST, COST SAVINGS, AND IMPACT OF PROVIDING AND EXPANDING ONLINE INSTRUCTION THROUGH THE HAWAII VIRTUAL LEARNING NETWORK'S PROGRAMS AND COURSES," was adopted.

Stand. Com. Rep. No. 2657 (S.C.R. No. 38, S.D. 1):

On motion by Senator Sakamoto, seconded by Senator Slom and carried, the report of the Committee was adopted and S.C.R. No. 38, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION RECOMMENDING THAT THE KAPOLEI COURT COMPLEX BE RENAMED THE "RONALD T.Y. MOON JUDICIAL COMPLEX"," was adopted.

FINAL READING

S.B. No. 549, S.D. 1, H.D. 1:

On motion by Senator Baker, seconded by Senator Ige and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 549, S.D. 1, and S.B. No. 549, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE EXPRESS WARRANTY ENFORCEMENT," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, none. Excused, 6 (Bunda, English, Hemmings, Kim, Kokubun, Tsutsui).

S.B. No. 771, S.D. 1, H.D. 1:

On motion by Senator Baker, seconded by Senator Ige and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 771, S.D. 1, and S.B. No. 771, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO APPRAISALS," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, none. Excused, 6 (Bunda, English, Hemmings, Kim, Kokubun, Tsutsui).

At this time, the Chair made the following announcement:

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

ADJOURNMENT

At 12:11 p.m., on motion by Senator Sakamoto, seconded by Senator Slom and carried, the Senate adjourned until 11:30 a.m., Monday, March 8, 2010.