

THIRTY-NINTH DAY

Tuesday, March 29, 2011

The Senate of the Twenty-Sixth Legislature of the State of Hawai'i, Regular Session of 2011, convened at 11:36 a.m. with the Vice President in the Chair.

The Roll was called showing all Senators present.

The Vice President announced that she had read and approved the Journal of the Thirty-Eighth Day.

At this time, Senator Espero introduced a group of fifth-grade students from Keone'ula Elementary School who were accompanied by teachers Donna Kawasaki, Ashley Otsuka, and Michele Bagaoisan, and chaperones Kimiko Takamiya and Kelly Ferris.

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 628 to 647) were read by the Clerk and were disposed of as follows:

Gov. Msg. No. 628, submitting for consideration and confirmation to the Board of Professional Engineers, Architects, Surveyors, and Landscape Architects, the nomination of PAUL MURRAY, term to expire June 30, 2015, was referred to the Committee on Commerce and Consumer Protection.

Gov. Msg. No. 629, submitting for consideration and confirmation to the State Board of Nursing, the nomination of DENISE L. COHEN, term to expire June 30, 2014, was referred to the Committee on Commerce and Consumer Protection.

Gov. Msg. No. 630, submitting for consideration and confirmation to the Motor Vehicle Industry Licensing Board, the nomination of STANLEY T. MASAMITSU, term to expire June 30, 2015, was referred to the Committee on Commerce and Consumer Protection.

Gov. Msg. No. 631, submitting for consideration and confirmation to the Board of Directors of the Hawai'i Hurricane Relief Fund, the nomination of JOHN GARIBALDI, term to expire June 30, 2015, was referred to the Committee on Commerce and Consumer Protection.

Gov. Msg. No. 632, submitting for consideration and confirmation to the Board of Professional Engineers, Architects, Surveyors, and Landscape Architects, the nomination of ROBERT K. YANABU, term to expire June 30, 2014, was referred to the Committee on Commerce and Consumer Protection.

Gov. Msg. No. 633, submitting for consideration and confirmation to the State Board of Public Accountancy, the nomination of CRAIG K. HIRAI, term to expire June 30, 2015, was referred to the Committee on Commerce and Consumer Protection.

Gov. Msg. No. 634, submitting for consideration and confirmation to the State Board of Public Accountancy, the nomination of NELSON LAU, term to expire June 30, 2015, was referred to the Committee on Commerce and Consumer Protection.

Gov. Msg. No. 635, submitting for consideration and confirmation to the State Board of Public Accountancy, the nomination of KEITH REGAN, term to expire June 30, 2015, was referred to the Committee on Commerce and Consumer Protection.

Gov. Msg. No. 636, submitting for consideration and confirmation to the State Board of Public Accountancy, the

nomination of WENDY MIKI GLAUS, term to expire June 30, 2015, was referred to the Committee on Commerce and Consumer Protection.

Gov. Msg. No. 637, submitting for consideration and confirmation to the State Board of Nursing, the nomination of AMY S. MURAI, term to expire June 30, 2014, was referred to the Committee on Commerce and Consumer Protection.

Gov. Msg. No. 638, submitting for consideration and confirmation to the Environmental Council, the nomination of IRIS TERASHIMA, term to expire June 30, 2014, was referred to the Committee on Energy and Environment.

Gov. Msg. No. 639, submitting for consideration and confirmation to the Statewide Council on Independent Living, the nomination of MARC ANTOINE MORTIMER, term to expire June 30, 2012, was referred to the Committee on Human Services.

Gov. Msg. No. 640, submitting for consideration and confirmation to the Policy Advisory Board for Elder Affairs, the nomination of ANTHONY LENZER, term to expire June 30, 2015, was referred to the Committee on Human Services.

Gov. Msg. No. 641, submitting for consideration and confirmation to the Statewide Council on Independent Living, the nomination of YVONNE L. FOSTER, term to expire June 30, 2014, was referred to the Committee on Human Services.

Gov. Msg. No. 642, submitting for consideration and confirmation to the Statewide Council on Independent Living, the nomination of ANN ELIZABETH LEMKE, term to expire June 30, 2014, was referred to the Committee on Human Services.

Gov. Msg. No. 643, submitting for consideration and confirmation to the Health Planning Council, Hawai'i County Subarea, the nomination of AMY DOFF, term to expire June 30, 2015, was referred to the Committee on Health.

Gov. Msg. No. 644, submitting for consideration and confirmation to the Board of Certification of Operation Personnel in Wastewater Treatment Plants, the nomination of KEVIN NAKAMURA, term to expire June 30, 2015, was referred to the Committee on Health.

Gov. Msg. No. 645, submitting for consideration and confirmation to the Civil Defense Advisory Council, the nomination of RAYMOND JARDINE JR., term to expire June 30, 2014, was referred to the Committee on Public Safety, Government Operations, and Military Affairs.

Gov. Msg. No. 646, submitting for consideration and confirmation to the State Highway Safety Council, the nomination of CHAD K. TANIGUCHI, term to expire June 30, 2015, was referred to the Committee on Transportation and International Affairs.

Gov. Msg. No. 647, submitting for consideration and confirmation to the Legacy Land Conservation Commission, the nomination of MYRONE MURAKAMI, term to expire June 30, 2015, was referred to the Committee on Water, Land, and Housing.

DEPARTMENTAL COMMUNICATIONS

The following communications (Dept. Com. Nos. 74 to 80) were read by the Clerk and were placed on file:

Dept. Com. No. 74, from the Hawaii Labor Relations Board dated March 23, 2011, transmitting a letter notifying the

Legislature that the fiftieth day of impasse in the negotiations between the public employers and the United Public Workers, AFSCME, Local 646, AFL-CIO for Unit 01 has been reached and the mandatory mediation period is over pursuant to Section 89-11(d), HRS.

Dept. Com. No. 75, from the Hawaii Labor Relations Board dated March 23, 2011, transmitting a letter notifying the Legislature that the fiftieth day of impasse in the negotiations between the public employers and the Hawaii State Teachers Association for Unit 05 has been reached and the mandatory mediation period is over pursuant to Section 89-11(d), HRS.

Dept. Com. No. 76, from the Department of Transportation dated March 23, 2011, transmitting a request to apply for and expend unappropriated federal grant funds for Honolulu International Airport by \$18,821,000.

Dept. Com. No. 77, from the Department of Transportation dated March 23, 2011, transmitting a request to apply for and expend unappropriated federal grant funds for Honolulu International Airport by \$3,422,200.

Dept. Com. No. 78, from the Department of Transportation dated March 23, 2011, transmitting a request to apply for and expend unappropriated federal grant funds for Lanai Airport.

Dept. Com. No. 79, from the Department of Transportation dated March 23, 2011, transmitting a request to apply for and expend unappropriated federal grant funds for Molokai Airport.

Dept. Com. No. 80, from the Department of Transportation dated March 23, 2011, transmitting a request to apply for and expend unappropriated federal grant funds for Hilo International Airport.

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 361 and 362) were read by the Clerk and were disposed of as follows:

Hse. Com. No. 361, returning S.B. No. 1069, S.D. 1, as amended in H.D. 1, which passed Third Reading in the House of Representatives on March 28, 2011, was placed on file.

By unanimous consent, action on S.B. No. 1069, S.D. 1, (H.D. 1), entitled: "A BILL FOR AN ACT RELATING TO CRUELTY TO ANIMALS," was deferred until Thursday, March 31, 2011.

Hse. Com. No. 362, returning S.B. No. 1489, S.D. 1, as amended in H.D. 1, which passed Third Reading in the House of Representatives on March 28, 2011, was placed on file.

By unanimous consent, action on S.B. No. 1489, S.D. 1, (H.D. 1), entitled: "A BILL FOR AN ACT RELATING TO ATTORNEY'S LIENS," was deferred until Thursday, March 31, 2011.

ORDER OF THE DAY

AGREE/DISAGREE

MATTER DEFERRED FROM MONDAY, MARCH 28, 2011

S.B. No. 34, S.D. 1 (H.D. 1):

On motion by Senator Espero, seconded by Senator Slom and carried, the Senate disagreed to the amendments proposed by the House to S.B. No. 34, S.D. 1, and requested a conference on the subject matter thereof.

At this time, the Chair made the following announcements:

"Referrals and re-referrals are made in accordance with the referrals and re-referrals on the Order of the Day and the

Supplemental Order of the Day that may be distributed to your offices later this afternoon."

"The Hawai'i Medal of Honor Joint Session will convene at 2:00 p.m. in the Senate Chamber. All members are asked to report to the Senate Chamber by 1:45 p.m."

RE-REFERRAL OF HOUSE BILLS

The Chair re-referred the following House bills that were received:

H.B. No.:	Re-referred to:
H.B. No. 563, H.D. 1	Jointly to the Committee on Energy and Environment and the Committee on Ways and Means
H.B. No. 879, H.D. 1, S.D. 1	Committee on Commerce and Consumer Protection, then to the Committee on Judiciary and Labor

At 11:41 a.m., on motion by Senator Espero, seconded by Senator Slom and carried, the Senate stood in recess subject to the call of the Chair to meet in Joint Session with the House of Representatives, in accordance with Senate Concurrent Resolution No. 27, to award the Hawai'i Medal of Honor to United States military service members with Hawai'i connections who were killed in action while serving in dangerous, volatile, and unstable areas of the world, including Iraq and Afghanistan.

JOINT SESSION

The Joint Session of the Senate and the House of Representatives of the Twenty-Sixth Legislature of the State of Hawai'i, Regular Session of 2011, was called to order at 2:03 p.m. by the Honorable Shan S. Tsutsui, President of the Senate.

The President addressed the Chamber, stating:

"This is indeed a momentous occasion. We honor members of the Armed Forces of the United States, with ties to Hawai'i, who fought and died bravely, in combat zones designated by presidential order.

"On behalf of the House Speaker and all of the members of the Hawai'i State Legislature, I convey our deepest condolences to our very special guests—the family, friends and colleagues of loved ones, who have lost their lives overseas while in the Middle East. Our prayers are with you, and we are honored by your presence today.

"Please rise for the posting of colors by the Joint Service Color Guard, the Hawai'i Air National Guard, and the Royal Guard; and remain standing for the singing of the National Anthem and 'Hawai'i Pono'i' by Ms. Jennifer Lee, which will be followed by the invocation by Raymond Ganotise, Master Sergeant Retired from the Hawai'i Army National Guard."

At this time, the members of the Twenty-Sixth Legislature and special guests rose for the Posting of Colors by the Joint Service Color Guard, the Hawai'i Air National Guard, and the Royal Guard.

The members of the Legislature and guests remained standing for the singing of the National Anthem and "Hawai'i Pono'i" by Ms. Jennifer Lee.

The Divine Blessing was then invoked by retired Master Sergeant Raymond Ganotise.

At this time, the President thanked the Joint Service Color Guard, the Royal Guard, Ms. Jennifer Lee, and retired Master

Sergeant Raymond Ganotise for their participation in today's ceremony.

The President then addressed the members of the Legislature and guests as follows:

"Today, we have gathered so that we can honor and remember our fallen heroes, their families and friends.

"As we go about with our busy everyday lives, whether it's going to work, attending a baby luau, sporting events on the weekend, or even church on Sundays, it is easy to forget that there is a war going on, and in other parts of the world combat in the streets is an all day and everyday occurrence for both civilians and soldiers. Through the distance, we are sometimes able to disassociate ourselves from the reality that our brave soldiers experience on a daily basis and from the ensuing heartache that is felt by their loved ones who long for their safe return home.

"The Hawai'i Medal of Honor is awarded on behalf of the people of Hawai'i to soldiers who are connected to these islands and are a part of our 'ohana, our family, forever. Today, I am truly privileged and profoundly humbled to take part in this ceremony to honor those who have sacrificed their lives in defense of our nation and its freedoms.

"No one can take the place of a lost loved one. Nothing can be said to fill the void that is left in the hearts and lives of those who are left behind. In many ways, today's events bring up mixed emotions... great sorrow, for those who have fallen... and also the great pride in the bravery, dedication, and commitment these soldiers possessed and demonstrated in their lives.

"These individuals assumed their duties with the understanding of the potential danger that they would face and in light of that, they still chose to dedicate themselves to a life of service to our country. Their courage, honor, and commitment, have forged an enduring legacy as common individuals demonstrating uncommon valor.

"Let us pledge to each other that these brave soldiers that have fallen will not be in vain. Let us never forget the magnitude of their sacrifices and remain ever grateful. For the debt we owe can never be repaid, but through our continued commitment to the freedoms and ideals that define our country may we honor their memories.

"Words cannot adequately express the appreciation and the gratitude that the people of Hawai'i have for our courageous members in the military.

"To our fallen soldiers and their families and friends, thank you for your many sacrifices. Our thoughts and prayers remain with you all. You will always be remembered with honor and respect.

"Thank you and mahalo to everyone here today and may God continue to bless all of us."

The President then stated:

"Before proceeding any further, I would like to acknowledge the presence of our military and congressional leaders."

At this time, the President welcomed and introduced the following distinguished guests to the members of the Twenty-Sixth Legislature:

The Honorable Neil Abercrombie, Governor of the State of Hawai'i;

The Honorable Brian Schatz, Lieutenant Governor of the State of Hawai'i;

Representing the Honorable Daniel K. Inouye, United States Senator—Colonel Walter Kaneakua, USA, Retired;

Representing the Honorable Daniel K. Akaka, United States Senator—Mr. Ricky Oshiro;

Representing the Honorable Mazie K. Hirono, United States Congresswoman—Ms. Kelsey Anderson;

Representing the Honorable Colleen Hanabusa, United States Congresswoman—Mr. Rod Tanonaka;

Mr. Bill Paty, Civilian Aide to the Secretary of the Army Emeritus;

Ms. Christina Kemmer, Civilian Aide to the Secretary of the Army Emeritus;

Lieutenant General Duane Thiessen, Commander, Marine Forces Pacific;

Major General Darryll D.M. Wong, Adjutant General, Hawai'i Department of Defense, and Mrs. Teresa Wong;

Representing the United States Army Pacific—Brigadier General John E. Seward and Mrs. Lisa Seward;

Representing Major General Bernard Champoux and the 25th Infantry Division—his wife Mrs. Mary Susan Champoux and Lieutenant Colonel David Francis;

Brigadier General Michele Compton, Commander, 9th Regional Support Command, and Brigadier General Mike Compton;

Brigadier General Gary M. Hara, Commander, Hawai'i Army National Guard;

Representing the Hawai'i Air National Guard and Brigadier General Ann Greenlee—Brigadier General Stanley J. Osserman, Jr.;

Rear Admiral Dixon R. Smith, Commander, Navy Region Hawai'i, and Mrs. Kiki Smith;

Brigadier General Joseph Kim, Deputy Adjutant General, Hawai'i Department of Defense, and Mrs. Kim;

Brigadier General William J. Scott, Commanding General, 311th Signal Command (Theater), and Mrs. Paula Scott;

Representing the United States Pacific Air Forces and General Gary North—Colonel Brou Gautier;

Representing the United States Marine Forces Pacific and Lieutenant General Duane Thiessen—Colonel James Bierman;

Representing the United States Air Force 154th Wing—Colonel Brad Sakai and Mrs. Momi Sakai; and

Representing Tripler Army Medical Center and Brigadier General Keith Gallagher—Captain Jose Acosta.

The President then stated:

"Ladies and gentleman, please help me in acknowledging once again these fine military and congressional leaders that are all here today."

At this time, the President called upon Major General Darryll Wong to deliver his remarks on behalf of the military.

General Wong addressed the Joint Session and guests as follows:

"Governor Abercrombie, Senate President Shan Tsutsui, House Speaker Calvin Say, Lieutenant Governor Brian Schatz, Walt Kaneakua, Ricky Oshiro, Marvin Buenconsejo, Rod Tanonaka, Bill Paty, Christina Kemmer, members of the State

Legislature, federal flag officers, veterans, and especially our esteemed families, I want to begin by thanking all of you for coming to this ceremony. Today marks the sixth year that the state officials have gathered here in these Chambers for this solemn ceremony. The presentation of the Hawai'i State Medal of Honor was the first of its kind in the nation and has since been emulated by several other states.

"As the newly appointed State Adjutant General, this is the first time that I've had the honor of addressing this assemblage. But it is my fervent wish that it will be the last ceremony of its kind. That would mean that no more of Hawai'i based members of our armed forces would have paid the ultimate price in the global of terrorism and no more families would have to grieve for their loss. But our nation remains engaged in Iraq, Afghanistan, and elsewhere in Southwest Asia and the Horn of Africa, and therefore our men and women in uniform will continue to place themselves in harm's way for the sake and the security and the freedom of others. No one who puts on the uniform wants to die for their country, but they are nonetheless willing to if it means that others may live in peace and security. At the very least, such selflessness deserves public recognition of the highest order and that is why we are here today.

"The State Medal of Honor is Hawai'i's way of remembering the soldiers, sailors, airmen, marines, and coast guardsmen who have paid the ultimate sacrifice, to show our appreciation to their families, to share in their loss, and to assure them that they will always be a part of this state 'ohana or family. It doesn't matter if they were service members that grew up in Hawai'i or first set foot upon these beautiful islands as part of a Hawai'i based unit. He or she is still embraced as part of our family. There is no greater sacrifice the family can make than the loss of their loved one while in service to our nation, and there is no greater honor that the people of Hawai'i can bestow upon them to symbolize that sacrifice.

"As this war on terrorism continues, it will remain our obligation to honor our selfless men and women in uniform and their families. It is the very least we can do for them after they have done so much for all of us. To the family and friends of our fallen heroes, I humbly ask that you accept this Hawai'i Medal of Honor on behalf of the people of Hawai'i who today and forever shall be your devoted family. Mahalo and thank you."

The President thanked Major General Wong for his continued leadership, then presented to the members of the Twenty-Sixth Legislature and special guests the Honorable Neil Abercrombie, Governor of the State of Hawai'i.

The Governor addressed the Joint Session and guests as follows:

"Thank you, Mr. President. Welcome to all here, most especially to the families that have been able to join us today. I would like to begin my remarks with a passage that was taken by James Gould Cozzens in his great novel of World War II, *Guard of Honor*. It was taken from Shakespeare's *Tempest*. 'I and my fellows are ministers of Fate: the elements of whom your swords are temper'd may as well wound the loud winds, or with bemock'd...stabs kill the still closing waters, as diminished one dowle that's in my plume: my fellow-ministers are...invulnerable.' Cozzens understood with perhaps an artist's sensitivity and sensibility what it is that men and women have been called upon to endure in World War II. Suffice to say, that kind of sacrifice has been asked again, and again, and yet again.

"Those who are here with us today understand that for however brief a time, we were privileged and honored to have with us here in paradise those we honor today. As a member of the Armed Services Committee of the United States House of Representatives for two decades, it was my obligation and

responsibility to spend time among troops in the field, particularly in Iraq and Afghanistan. So, I come to you today with these words of greeting and gratitude, bringing with me the sentiments of those who have been mentioned as part of the congressional delegation and from those who have served on the civilian side of responsibility with regard to what has been expected of men and women defending the strategic interests of the United States of America: that that commitment to peace, and justice, and freedom, and opportunity, which is manifest in the lives that have been given are recognized here today and that those lives are held in our hearts and in our minds.

"One might say, and I expect one might find, those who would dismiss a ceremony of this kind and find it to be ritualistic. After all, we've done this now, as indicated by General Wong, six times. We hope not to have to do it a 7th, or an 8th or a 9th, but should that occur and should that be a necessity, we will surely do it. And the reason is, is that ritual is the great conservator of values: the values that were given to these young men and women that they manifested in their lives and their commitment and their sacrifice, and we recognize it. It's important to recognize it. It's important that we, who understand what that sacrifice was all about, let you know that it continues in our hearts and in our minds. And, so, yes, we give a greeting to all of you today. But more than that, we thank you. More than that, we say to you: come again to paradise. More than that, we say to you: you are part of our 'ohana, part of our family here in paradise. Aloha and mahalo."

The President then stated:

"Madam Clerk, please begin the announcements of the Hawai'i Medal of Honor recipients."

At this time, the Senate Clerk proceeded to read the names of the following individuals who were represented by family members, friends, and colleagues to receive their medals and certificates:

United States Army Specialist Toby R. Olsen;
United States Army Private First Class JR Salvacion;
United States Army Private First Class Raymond N. Pacleb;
United States Army Sergeant Jamal M. Rhett;
United States Marine Corps First Lieutenant Scott J. Fleming;
United States Army Sergeant David J. Luff, Jr.;
United States Marine Corps Sergeant Matthew T. Abbate;
United States Army Corporal Sean M. Collins; and
United States Marine Corps Lance Corporal Timothy J. Poole, Jr.

The President then stated:

"Members of the Senate and members of the House, please help me once again in recognizing the recipients' family members, friends and colleagues who have joined us here today.

"Madam Clerk, please begin the announcement of the names of other recipients of the Hawai'i Medal of Honor, whose families could not be present at today's ceremony."

The House Clerk proceeded to read the names of the following individuals whose families were unable to attend today's ceremony:

United States Marine Corps Lance Corporal Noah M. Pier;
United States Marine Corps Lance Corporal Curtis M. Swenson;
United States Marine Corps Corporal Joe L. Wrightsman;
United States Marine Corps Private First Class Jake W. Suter;
United States Army First Lieutenant Michael L. Runyan;
United States Army Staff Sergeant Philip C. Jenkins;

United States Army Private First Class James F. McClamrock; and
United States Army Sergeant Aracely Gonzales O'Malley.

President Tsutsui stated:

"Members of the House and members of the Senate, please recognize and thank the recipients' family members, friends and colleagues who have joined us in the Chamber today."

At this time, Speaker Say made the following announcement:

"Members of the House and Senate, special guests, please rise and turn your attention to the rotunda level for the rifle salute and the playing of 'Taps'. Following this will be a moment of silence. Members of the Hickam Base Honor Guard, please proceed."

A 21-gun Salute and Taps were then carried out by the U.S. Air Force and the U.S. Navy.

The Speaker then gave his closing remarks as follows:

"To all of you, thank you for your participation in this ceremony. Thank you especially for your display of commendation, respect, and gratitude for the sacrifice of the young persons we have honored today. Thank you also for the honor you have bestowed upon their families.

"During these times of ceremonies, we are reminded of what not to take for granted. We should not take for granted our family and friends, our standard of living, and our appreciation of innovation, individualism, and self-expression. We should not take for granted our multi-cultural, multi-religious, multi-ethnic society of tolerance, which is the basis for our moral authority in the world today. Most importantly, we should never take for granted our freedom, dearly earned and preserved by the young persons honored today and their predecessors.

"I am sure that they would join me in saying: God Bless America!"

The Speaker then stated:

"Members of the House and Senate, and special guests, please stand for the retiring of the colors. Joint Service Color Guard and Royal Guard, please retire the colors."

At this time, the members of the Twenty-Sixth Legislature and special guests rose for the Retiring of the Colors by the Joint Service Color Guard and the Hawai'i Air National Guard, Royal Guard.

The Speaker stated:

"There being no further business, I now declare this Joint Session adjourned."

At 2:49 p.m., Speaker Say declared the Joint Session adjourned.

ADJOURNMENT

At 2:49 p.m., the Senate adjourned until 11:30 a.m., Thursday, March 31, 2011.