

FORTY-THIRD DAY

Tuesday, April 5, 2011

The Senate of the Twenty-Sixth Legislature of the State of Hawai'i, Regular Session of 2011, convened at 11:32 a.m. with the President in the Chair.

The Roll was called showing all Senators present.

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

At this time, Senator Espero recognized the centennial anniversary of U.S. Naval Aviation and expressed heartfelt appreciation for the dedication, service, and sacrifice of our uniformed services and extended sincere best wishes for their continued health, safety, and success. Representing the heritage of naval aviation was Mr. Jay Dunn, who flew CH-46 helicopters in Southeast Asia during the Vietnam era and is now a volunteer docent teaching young people at the Pacific Aviation Museum; representing the present was Commander Brian Grimm, who has deployed in the North Atlantic, Mediterranean, Arabian Gulf, Caribbean and across the Pacific; representing the future of naval aviation was Ensign Sally Deboer, a P-3 navigator with the VP-9 Squadron at Kāne'ohe who recently arrived in Hawai'i on her very first operational tour; and recognized in absentia were the courageous naval aviators who were not present and the sacrifice and support of their families including the "Skinny Dragons" of VP-4, who were participating in Operation Tomodachi helping the people of Japan after the earthquake and tsunami, and who were represented by Ms. Kathy Newland, wife of Commanding Officer Navy Commander Steven Newland of the VP-4 Squadron. Also recognized were Deputy Public Affairs Officer Bill Doughty, Commander, Navy Region Hawai'i; Lieutenant Lindsey Sinnett, VP-9 Marine Corps Base Hawai'i; MC2 Specialist Robert Stirrup, Navy Region Hawai'i; and family member Ms. Andrea Long.

At 11:41 a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:47 a.m.

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 775 to 777) were read by the Clerk and were disposed of as follows:

Gov. Msg. No. 775, submitting for consideration and confirmation to the Commission on the Status of Women, the nomination of LESLIE WILKINS, term to expire June 30, 2015, was referred to the Committee on Judiciary and Labor.

Gov. Msg. No. 776, submitting for consideration and confirmation to the Hawaiian Homes Commission, the nomination of LEIVALLYN KAUPU, term to expire June 30, 2013, was referred to the Committee on Hawaiian Affairs.

Gov. Msg. No. 777, informing the Senate that on March 22, 2011, the Governor withdrew RIED C. FISHER, Gubernatorial Nominee to the Board of Professional Engineers, Architects, Surveyors, and Landscape Architects, from consideration by the Senate (Gov. Msg. No. 675), was placed on file.

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 370 to 376) were read by the Clerk and were disposed of as follows:

Hse. Com. No. 370, returning S.B. No. 105, S.D. 2, as amended in H.D. 1, which passed Third Reading in the House of Representatives on April 4, 2011, was placed on file.

By unanimous consent, action on S.B. No. 105, S.D. 2, (H.D. 1), entitled: "A BILL FOR AN ACT RELATING TO UNIFORM REAL PROPERTY TRANSFER ON DEATH," was deferred until Wednesday, April 6, 2011.

Hse. Com. No. 371, returning S.B. No. 1067, S.D. 1, as amended in H.D. 2, which passed Third Reading in the House of Representatives on April 4, 2011, was placed on file.

By unanimous consent, action on S.B. No. 1067, S.D. 1 (H.D. 2), entitled: "A BILL FOR AN ACT RELATING TO PROBATION," was deferred until Wednesday, April 6, 2011.

Hse. Com. No. 372, returning S.B. No. 1533, S.D. 1, as amended in H.D. 1, which passed Third Reading in the House of Representatives on April 4, 2011, was placed on file.

By unanimous consent, action on S.B. No. 1533, S.D. 1, (H.D. 1), entitled: "A BILL FOR AN ACT RELATING TO CRUELTY TO ANIMALS," was deferred until Wednesday, April 6, 2011.

Hse. Com. No. 373, transmitting H.C.R. No. 4, H.D. 1, which was adopted by the House of Representatives on April 4, 2011, was placed on file.

By unanimous consent, H.C.R. No. 4, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION DECLARING THE MONTH OF MAY AS LUPUS AWARENESS MONTH IN HAWAII," was referred to the Committee on Health.

Hse. Com. No. 374, transmitting H.C.R. No. 80, H.D. 2, which was adopted by the House of Representatives on April 4, 2011, was placed on file.

By unanimous consent, H.C.R. No. 80, H.D. 2, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE UNITED STATES CONGRESS TO EXAMINE FEDERAL LAWS AND REGULATIONS TO ALLOW STATES TO MORE READILY ENACT UNEMPLOYMENT COMPENSATION-RELATED LAWS THAT ALLOW FEAR OF DOMESTIC OR SEXUAL VIOLENCE TO BE A VALID REASON FOR NOT ACCEPTING SUITABLE WORK," was referred jointly to the Committee on Public Safety, Government Operations, and Military Affairs and the Committee on Judiciary and Labor, then to the Committee on Ways and Means.

Hse. Com. No. 375, transmitting H.C.R. No. 202, which was adopted by the House of Representatives on April 4, 2011, was placed on file.

By unanimous consent, H.C.R. No. 202, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE HAWAII SUPREME COURT STANDING COMMITTEE ON THE RULES OF EVIDENCE TO STUDY AND REPORT ON THE IMPLEMENTATION OF THE HAWAII UNIFORM COLLABORATIVE LAW ACT," was referred to the Committee on Judiciary and Labor.

Hse. Com. No. 376, transmitting H.C.R. No. 209, which was adopted by the House of Representatives on April 4, 2011, was placed on file.

By unanimous consent, H.C.R. No. 209, entitled: "HOUSE CONCURRENT RESOLUTION RECOGNIZING OCTOBER AS WOMEN'S HEALTH MONTH," was referred to the Committee on Health.

STANDING COMMITTEE REPORTS

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 1049) recommending that H.B. No. 1520, H.D. 2, S.D. 1, as amended in S.D. 2, pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 1049 and H.B. No. 1520, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO RENEWABLE ENERGY," was deferred until Thursday, April 7, 2011.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 1050) recommending that H.B. No. 1342, H.D. 1, S.D. 1, as amended in S.D. 2, pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 1050 and H.B. No. 1342, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO TELECOMMUNICATIONS," was deferred until Thursday, April 7, 2011.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 1051) recommending that H.B. No. 747, H.D. 1, S.D. 1, as amended in S.D. 2, pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 1051 and H.B. No. 747, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO LIQUOR LIABILITY INSURANCE," was deferred until Thursday, April 7, 2011.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 1052) recommending that S.C.R. No. 134, as amended in S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1052 and S.C.R. No. 134, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE CONVENING OF A WORKING GROUP TO INVESTIGATE THE CREATION OF A LOCALLY-FOCUSED, HAWAII-BASED STOCK EXCHANGE," was deferred until Wednesday, April 6, 2011.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 1053) recommending that S.C.R. No. 48 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1053 and S.C.R. No. 48, entitled: "SENATE CONCURRENT RESOLUTION URGING CONGRESS TO SUPPORT FEDERAL LEGISLATION PROHIBITING HEALTH INSURERS FROM DENYING COVERAGE TO VICTIMS OF DOMESTIC VIOLENCE ON THE GROUNDS THAT IT IS A PRE-EXISTING CONDITION," was deferred until Wednesday, April 6, 2011.

Senator Espero, for the Committee on Public Safety, Government Operations, and Military Affairs, presented a report (Stand. Com. Rep. No. 1054) recommending that S.C.R. No. 167, as amended in S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1054 and S.C.R. No. 167, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THAT THE CIVIL DEFENSE DIVISION OF THE HAWAII DEPARTMENT OF DEFENSE IS REQUESTED WORK WITH THE COUNTY CIVIL DEFENSE OR EMERGENCY MANAGEMENT AGENCIES TO EVALUATE THE APPROPRIATENESS OF TSUNAMI EVACUATION SITES IN THE STATE," was deferred until Wednesday, April 6, 2011.

Senator Espero, for the Committee on Public Safety, Government Operations, and Military Affairs, presented a

report (Stand. Com. Rep. No. 1055) recommending that S.R. No. 103, as amended in S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1055 and S.R. No. 103, S.D. 1, entitled: "SENATE RESOLUTION REQUESTING THAT THE CIVIL DEFENSE DIVISION OF THE HAWAII DEPARTMENT OF DEFENSE IS REQUESTED WORK WITH THE COUNTY CIVIL DEFENSE OR EMERGENCY MANAGEMENT AGENCIES TO EVALUATE THE APPROPRIATENESS OF TSUNAMI EVACUATION SITES IN THE STATE," was deferred until Wednesday, April 6, 2011.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 1056) recommending that the Senate advise and consent to the nomination of CARL D. JOHNSEN to the Motor Vehicle Industry Licensing Board, in accordance with Gov. Msg. No. 535.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1056 and Gov. Msg. No. 535 was deferred until Wednesday, April 6, 2011.

ORDER OF THE DAY**ADVISE AND CONSENT**

Stand. Com. Rep. No. 1042 (Gov. Msg. Nos. 530, 531 and 532):

Senator Baker moved that Stand. Com. Rep. No. 1042 be received and placed on file, seconded by Senator Taniguchi and carried.

Senator Baker then moved that the Senate advise and consent to the nominations to the Contractors License Board of the following:

ANACLETO "JOEY" S. ALCANTRA JR., term to expire June 30, 2015 (Gov. Msg. No. 530);

PETER LEE, term to expire June 30, 2015 (Gov. Msg. No. 531); and

JOHN POLISCHECK, term to expire June 30, 2015 (Gov. Msg. No. 532),

seconded by Senator Taniguchi.

Senator Baker rose in strong support of the nominees and said:

"Mr. President, colleagues, your Committee on Commerce and Consumer Protection had an opportunity to meet with all of these nominees and to learn of their background. They clearly have the depth of experience, whether in the trades as a contractor or as a member of a labor management committee working in this arena. They have the education, the background, and the commitment to public service that will make them effective board members. Therefore, on behalf of your committee, I recommend that all my colleagues join in advising and consent."

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

Ayes, 25. Noes, none.

At this time, Senator Baker introduced Mr. Peter Lee, one of the newly confirmed members of the Contractors License Board who was seated in the gallery.

ADOPTION OF RESOLUTIONS**MATTERS DEFERRED FROM MONDAY, APRIL 4, 2011**

Stand. Com. Rep. No. 1043 (S.C.R. No. 145):

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and S.C.R. No. 145, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE BOARD OF EDUCATION AND THE DEPARTMENT OF EDUCATION TO COLLABORATE WITH PARENT ORGANIZATIONS TO DEVELOP STATEWIDE POLICIES FOR FAMILY ENGAGEMENT FOR HAWAII'S PUBLIC SCHOOLS," was adopted.

Stand. Com. Rep. No. 1044 (S.C.R. No. 80, S.D. 1):

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and S.C.R. No. 80, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING REPORTS ON THE FEASIBILITY OF USING EXISTING TELECONFERENCING AND VIDEOCONFERENCING FACILITIES FOR UNIVERSITY OF HAWAII BOARD OF REGENTS AND BOARD OF EDUCATION MEETINGS," was adopted.

Stand. Com. Rep. No. 1045 (S.C.R. No. 150, S.D. 1):

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and S.C.R. No. 150, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION SUPPORTING THE COMMUNITY SERVICES BLOCK GRANT PROGRAM AND STRONGLY OPPOSING BUDGET CUTS PROPOSED BY THE PRESIDENT OF THE UNITED STATES AND MEMBERS OF THE UNITED STATES CONGRESS," was adopted.

Stand. Com. Rep. No. 1046 (S.R. No. 90, S.D. 1):

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and S.R. No. 90, S.D. 1, entitled: "SENATE RESOLUTION SUPPORTING THE COMMUNITY SERVICES BLOCK GRANT PROGRAM AND STRONGLY OPPOSING BUDGET CUTS PROPOSED BY THE PRESIDENT OF THE UNITED STATES AND MEMBERS OF THE UNITED STATES CONGRESS," was adopted.

Stand. Com. Rep. No. 1047 (S.R. No. 88):

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and S.R. No. 88, entitled: "SENATE RESOLUTION ENCOURAGING THE DEPARTMENT OF HUMAN SERVICES TO CONSIDER IMPLEMENTING THE MY SAFE DRAWER COMPUTER APPLICATION FOR FOSTER YOUTH WHO ARE TRANSITIONING OUT OF THE FOSTER CARE SYSTEM," was adopted.

Stand. Com. Rep. No. 1048 (S.C.R. No. 14, S.D. 2):

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and S.C.R. No. 14, S.D. 2, entitled: "SENATE CONCURRENT RESOLUTION DISAPPROVING THE RESET ASIDE OF THE FORMER KULANI CORRECTIONAL FACILITY LANDS FROM THE DEPARTMENT OF PUBLIC SAFETY TO THE DEPARTMENT OF DEFENSE FOR THE YOUTH CHALLENGE ACADEMY, REQUESTING THE DEPARTMENT OF DEFENSE TO LOOK TO OTHER PLACES ON THE BIG ISLAND TO RELOCATE THE YOUTH CHALLENGE ACADEMY, AND URGING THE DEPARTMENT OF PUBLIC SAFETY TO REOPEN KULANI CORRECTIONAL FACILITY AT THE PRESENT SITE OF THE YOUTH CHALLENGE ACADEMY AND REHIRE THE SAME STAFF," was adopted.

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."

**RE-REFERRAL OF
SENATE CONCURRENT RESOLUTIONS**

The Chair re-referred the following concurrent resolutions that were offered:

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| S.C.R. No.: | Re-referred to: |
| S.C.R. No. 50 | Committee on Judiciary and Labor |
| S.C.R. No. 93 | Jointly to the Committee on Health and the Committee on Commerce and Consumer Protection |
| S.C.R. No. 127 | Committee on Health |

**RE-REFERRAL OF
MESSAGES FROM THE GOVERNOR**

The Chair re-referred the following Governor's Messages that were received:

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| G.M. No.: | Re-referred to: |
| G.M. No. 758 | Committee on Public Safety, Government Operations, and Military Affairs |
| G.M. No. 759 | Committee on Public Safety, Government Operations, and Military Affairs |
| G.M. No. 760 | Committee on Public Safety, Government Operations, and Military Affairs |
| G.M. No. 761 | Committee on Public Safety, Government Operations, and Military Affairs |
| G.M. No. 762 | Committee on Public Safety, Government Operations, and Military Affairs |
| G.M. No. 763 | Committee on Public Safety, Government Operations, and Military Affairs |
| G.M. No. 764 | Committee on Public Safety, Government Operations, and Military Affairs |
| G.M. No. 765 | Committee on Public Safety, Government Operations, and Military Affairs |
| G.M. No. 766 | Committee on Public Safety, Government Operations, and Military Affairs |
| G.M. No. 767 | Committee on Public Safety, Government Operations, and Military Affairs |
| G.M. No. 768 | Committee on Public Safety, Government Operations, and Military Affairs |
| G.M. No. 769 | Committee on Public Safety, Government Operations, and Military Affairs |

G.M. No. 770 Committee on Public Safety,
Government Operations, and Military
Affairs

G.M. No. 771 Committee on Public Safety,
Government Operations, and Military
Affairs

Senator Hee, Chair of the Committee on Judiciary and Labor, requested a waiver of the notice requirement pursuant to Senate Rule 21 for H.B. No. 1376 and H.B. No. 243, H.D. 1.

Senator Hee noted:

“We received late requests from some of my colleagues who I hold dearest to my heart; and so I am requesting this waiver to add these measures to our hearing on Thursday in order to fulfill my passionate, heartfelt feeling for them.”

The Chair granted the waiver.

At this time, Senator Galuteria rose to request that the Senate adjourn on a rising vote to observe a moment of silence in honor and memory of Kāneʻohe-based Corporal Jonathan D. Faircloth.

ADJOURNMENT

At 11:52 a.m., on motion by Senator Espero, seconded by Senator Slom and carried, the Senate adjourned until 11:30 a.m., Wednesday, April 6, 2011 on a rising vote, observing a moment of silence in memory of Corporal Jonathan D. Faircloth, crewmember of the downed CH-53D helicopter.