

FIFTY-FOURTH DAY

Monday, April 25, 2011

The Senate of the Twenty-Sixth Legislature of the State of Hawai'i, Regular Session of 2011, convened at 11:37 a.m. with the President in the Chair.

The Roll was called showing all Senators present with the exception of Senator Ihara who was excused.

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

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 669 to 674) were read by the Clerk and were disposed of as follows:

Hse. Com. No. 669, returning S.C.R. No. 44, S.D. 1, as amended in H.D. 1, which was adopted by the House of Representatives on April 21, 2011, was placed on file.

By unanimous consent, action on S.C.R. No. 44, S.D. 1, (H.D. 1), entitled: "SENATE CONCURRENT RESOLUTION ENCOURAGING FURTHER IMPLEMENTATION OF HOUSING FIRST PROGRAMS AND SERVICES TO COMBAT CHRONIC HOMELESSNESS," was deferred until Tuesday, April 26, 2011.

Hse. Com. No. 670, informing the Senate that on April 21, 2011, the House reconsidered its action taken on April 14, 2011, in disagreeing to the amendments proposed by the Senate to the following House bills:

H.B. No. 49, H.D. 1 (S.D. 1);
H.B. No. 320, H.D. 2 (S.D. 1);
H.B. No. 397, H.D. 2 (S.D. 2);
H.B. No. 915, H.D. 2 (S.D. 2); and
H.B. No. 1093, H.D. 1 (S.D. 2),

was placed on file.

Hse. Com. No. 671, informing the Senate that on April 21, 2011, the Speaker appointed conferees on the part of the House for the consideration of amendments proposed by the Senate to the following House bills:

H.B. No. 306, H.D. 1 (S.D. 2):

Representatives M. Oshiro, chair; Chong, Choy, M. Lee, Marumoto.

H.B. No. 793 (S.D. 1):

Representatives M. Oshiro, chair; Chong, Choy, M. Lee, Marumoto.

H.B. No. 1039, H.D. 1 (S.D. 2):

Representatives Souki, M. Oshiro, co-chairs; Chong, Choy, Ichiyama, M. Lee, Johanson.

H.B. No. 1092, H.D. 1 (S.D. 3):

Representatives M. Oshiro, chair; Chong, Choy, M. Lee,
was placed on file.

Hse. Com. No. 672, informing the Senate that on April 21, 2011, the Speaker appointed conferees on the part of the House for the consideration of amendments proposed by the House to the following Senate bills:

S.B. No. 120, S.D. 1 (H.D. 1):

Representatives M. Oshiro, chair; Chong, Choy, M. Lee, Ward.

S.B. No. 233, S.D. 2 (H.D. 1):

Representatives Yamane, M. Oshiro, co-chairs; M. Lee, Ward.

S.B. No. 570, S.D. 2 (H.D. 1):

Representatives M. Oshiro, chair; Chong, Choy, M. Lee.

S.B. No. 741, S.D. 1 (H.D. 1):

Representatives M. Oshiro, chair; Chong, Choy, M. Lee, Riviere.

S.B. No. 754, S.D. 1 (H.D. 1):

Representatives M. Oshiro, chair; Chong, Choy, M. Lee, Riviere.

S.B. No. 756, S.D. 2 (H.D. 1):

Representatives M. Oshiro, chair; Chong, Choy, M. Lee, Marumoto.

S.B. No. 1186, S.D. 2 (H.D. 1):

Representatives M. Oshiro, chair; Chong, Choy, M. Lee, Riviere.

S.B. No. 1270, S.D. 2 (H.D. 1):

Representatives M. Oshiro, chair; Chong, Choy, M. Lee, Marumoto,

was placed on file.

Hse. Com. No. 673, informing the Senate that on April 21, 2011, the Speaker appointed conferees on the part of the House for the consideration of amendments proposed by the House to the following Senate bill:

S.B. No. 1355, S.D. 1 (H.D. 2):

Representatives McKelvey, M. Oshiro, co-chairs; Chong, Choy,

was placed on file.

Hse. Com. No. 674, informing the Senate that on April 21, 2011, the Speaker made the following changes to the conferees on the following bill:

S.B. No. 1086, S.D. 1 (H.D. 2):

Representative Mizuno added as a manager,

was placed on file.

STANDING COMMITTEE REPORTS

Senator Espero, for the Committee on Public Safety, Government Operations, and Military Affairs, presented a report (Stand. Com. Rep. No. 1335) recommending that the Senate advise and consent to the nominations to the Hawai'i Aerospace Advisory Committee of the following:

STEWART BURLEY, in accordance with Gov. Msg. No. 758;

LEEANN CRABBE, in accordance with Gov. Msg. No. 759;

STEPHEN DAY, in accordance with Gov. Msg. No. 760;

ROCKLIN GMEINER, in accordance with Gov. Msg. No. 761;

GALEN HO, in accordance with Gov. Msg. No. 762;

MICHAEL T. MABERRY, in accordance with Gov. Msg. No. 763;

MARK MCGUFFIE, in accordance with Gov. Msg. No. 764;

PETER MOUGINIS-MARK, in accordance with Gov. Msg. No. 765;

JAMES L. PASQUINO, in accordance with Gov. Msg. No. 766;

ELLIOT PULHAM, in accordance with Gov. Msg. No. 767;

PETER QUIGLEY, in accordance with Gov. Msg. No. 768;

STEVEN J. SKLADANEK, in accordance with Gov. Msg. No. 769;

DONALD STRANEY, in accordance with Gov. Msg. No. 770; and

DERRICK TSURUDA, in accordance with Gov. Msg. No. 771.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1335 and Gov. Msg. Nos. 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770 and 771 was deferred until Tuesday, April 26, 2011.

Senator Green, for the Committee on Health, presented a report (Stand. Com. Rep. No. 1336) recommending that the Senate advise and consent to the nomination of AMY DOFF to the Health Planning Council, Hawai'i County Subarea, in accordance with Gov. Msg. No. 643.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1336 and Gov. Msg. No. 643 was deferred until Tuesday, April 26, 2011.

Senator Green, for the Committee on Health, presented a report (Stand. Com. Rep. No. 1337) recommending that the Senate advise and consent to the nomination of KEVIN NAKAMURA to the Board of Certification of Operation Personnel in Wastewater Treatment Plants, in accordance with Gov. Msg. No. 644.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1337 and Gov. Msg. No. 644 was deferred until Tuesday, April 26, 2011.

Senator Green, for the Committee on Health, presented a report (Stand. Com. Rep. No. 1338) recommending that the Senate advise and consent to the nominations to the Board of Health of the following:

VINCENT LEE, in accordance with Gov. Msg. No. 705; and

MARK YAMAKAWA, in accordance with Gov. Msg. No. 706.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1338 and Gov. Msg. No. 705 and 706 was deferred until Tuesday, April 26, 2011.

Senator Green, for the Committee on Health, presented a report (Stand. Com. Rep. No. 1339) recommending that the Senate advise and consent to the nomination of HEATHER LUSK to the Hawai'i Advisory Commission on Drug Abuse and Controlled Substances, in accordance with Gov. Msg. No. 707.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1339 and Gov. Msg. No. 707 was deferred until Tuesday, April 26, 2011.

Senator Green, for the Committee on Health, presented a report (Stand. Com. Rep. No. 1340) recommending that the Senate advise and consent to the nominations to the State Council on Mental Health of the following:

CHARLENE DARABAN, in accordance with Gov. Msg. No. 708; and

THERESA MINAMI, in accordance with Gov. Msg. No. 709.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1340 and Gov. Msg. Nos. 708 and 709 was deferred until Tuesday, April 26, 2011.

Senator Green, for the Committee on Health, presented a report (Stand. Com. Rep. No. 1341) recommending that the Senate advise and consent to the nominations to the Mental Health and Substance Abuse, Hawai'i Service Area Board of the following:

ALICE L. BRATTON, in accordance with Gov. Msg. No. 710;

CHRISTOPHER HOLSCHUH, in accordance with Gov. Msg. No. 711; and

STACY KUWATA, in accordance with Gov. Msg. No. 712.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1341 and Gov. Msg. Nos. 710, 711 and 712 was deferred until Tuesday, April 26, 2011.

Senator Green, for the Committee on Health, presented a report (Stand. Com. Rep. No. 1342) recommending that the Senate advise and consent to the nominations to the Radiologic Technology Board of the following:

JODI ANN NAKAOKA, in accordance with Gov. Msg. No. 716;

KATHLEEN ANN SUGAI, in accordance with Gov. Msg. No. 717; and

ANITA L. TU'UA, in accordance with Gov. Msg. No. 718.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1342 and Gov. Msg. Nos. 716, 717 and 718 was deferred until Tuesday, April 26, 2011.

Senator Green, for the Committee on Health, presented a report (Stand. Com. Rep. No. 1343) recommending that the Senate advise and consent to the nominations to the Emergency Medical Services Advisory Committee of the following:

ALAN KIMURA, in accordance with Gov. Msg. No. 719;

ZACHARY OCTAVIO, in accordance with Gov. Msg. No. 720; and

KARLSON PUNG, in accordance with Gov. Msg. No. 721.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1343 and Gov. Msg. Nos. 719, 720 and 721 was deferred until Tuesday, April 26, 2011.

Senators Kim and Tokuda, for the Committee on Tourism and the Committee on Education, presented a joint report (Stand. Com. Rep. No. 1344) recommending that H.C.R. No. 273, as amended in S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1344 and H.C.R. No. 273, S.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE SCHOOL OF TRAVEL INDUSTRY MANAGEMENT AT THE UNIVERSITY OF HAWAII AT MANOA TO DEVELOP ENHANCEMENTS FOR THE TOURISM-RELATED CAPABILITIES OF THE UNIVERSITY OF HAWAII

ECONOMIC RESEARCH ORGANIZATION DATA PORTAL AND EVALUATE WAYS TO BRING GREATER EFFICIENCIES TO THE WAY TOURISM-RELATED DATA IS STORED AND MONITORED," was deferred until Tuesday, April 26, 2011.

ORDER OF THE DAY

ADVISE AND CONSENT

Stand. Com. Rep. No. 1331 (Gov. Msg. Nos. 577, 578 and 579):

Senator Nishihara moved that Stand. Com. Rep. No. 1331 be received and placed on file, seconded by Senator Kahele and carried.

Senator Nishihara then moved that the Senate advise and consent to the nominations to the Board of Directors of the Agribusiness Development Corporation of the following:

LETITIA UYEHARA, term to expire June 30, 2012 (Gov. Msg. No. 577);

SCOTT E. ENRIGHT, term to expire June 30, 2015 (Gov. Msg. No. 578); and

ALAN T. TAKEMOTO, term to expire June 30, 2015 (Gov. Msg. No. 579),

seconded by Senator Kahele.

Senator Nishihara rose in support of the nominees as follows:

"Senate President and colleagues, your Committee on Agriculture has heard Governor's Messages Nos. 577, 578 and 579, this past April 14, on the following nominees: Letitia Uyehara, Scott Enright and Alan Takemoto, for consideration and confirmation to the Board of Directors of the Agribusiness Development Corporation. Your committee received numerous testimonies for each of the nominees, all of them in overwhelming support for their respective nominations. All three nominees are highly qualified, experienced, and passionate in their field of agriculture. All three individuals possess invaluable skills, experiences, and noteworthy accomplishments. We as a committee have asked for your indulgence in agreeing to advise and consent. Thank you."

Senator Solomon rose in support of the nominees as follows:

"Mr. President, I would like to incorporate the previous speaker's words as though they were my own in speaking in support. I've worked with the individuals so noted, and I want to just express to my colleagues that we can look forward to a better day for agriculture in the State of Hawai'i. Thank you very much."

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

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

Stand. Com. Rep. No. 1332 (Gov. Msg. Nos. 612, 613 and 615):

Senator Chun Oakland moved that Stand. Com. Rep. No. 1332 be received and placed on file, seconded by Senator Green and carried.

Senator Chun Oakland then moved that the Senate advise and consent to the nominations to the State Council on Developmental Disabilities of the following:

JOE D. CORDOVA, term to expire June 30, 2015 (Gov. Msg. No. 612);

BERNADETTE L. KELI'IAA, term to expire June 30, 2015 (Gov. Msg. No. 613); and

ROSELANI M. ROWE, term to expire June 30, 2015 (Gov. Msg. No. 615),

seconded by Senator Green.

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

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

Stand. Com. Rep. No. 1333 (Gov. Msg. No. 751):

Senator English moved that Stand. Com. Rep. No. 1333 be received and placed on file, seconded by Senator Espero and carried.

Senator English then moved that the Senate advise and consent to the nomination of ERIC MATSUDA to the Commission on Transportation, term to expire June 30, 2014, seconded by Senator Espero.

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

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

Stand. Com. Rep. No. 1334 (Gov. Msg. Nos. 611, 614, 616 and 617):

Senator Chun Oakland moved that Stand. Com. Rep. No. 1334 be received and placed on file, seconded by Senator Green and carried.

Senator Chun Oakland then moved that the Senate advise and consent to the nominations to the State Council on Developmental Disabilities of the following:

LANI BARTHOLOMEW, term to expire June 30, 2015 (Gov. Msg. No. 611);

AARON M. KEMP, term to expire June 30, 2015 (Gov. Msg. No. 614);

TIFFANY VARA, term to expire June 30, 2015 (Gov. Msg. No. 616); and

JOSEPHINE C. WOLL, term to expire June 30, 2015 (Gov. Msg. No. 617),

seconded by Senator Green.

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

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

At this time, Senator Nishihara introduced Alan Takemoto and Letitia Uyehara, newly confirmed members of the Board of Directors of the Agribusiness Development Corporation who were seated in the gallery with Russell Kokubun, Chair of the Hawai'i Department of Agriculture.

ADOPTION OF RESOLUTIONS

H.C.R. No. 85, H.D. 1:

On motion by Senator Espero, seconded by Senator Slom and carried, H.C.R. No. 85, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO DETERMINE WHETHER LANDS ALONG THE WAIPIO PENINSULA AND WAIPAHAU SHORELINES ARE ACCRETED LANDS AND THEREFORE STATE PROPERTY FOR PROSPECTIVE USE AS A STATE PARK," was adopted.

H.C.R. No. 100, H.D. 2:

On motion by Senator Espero, seconded by Senator Slom and carried, H.C.R. No. 100, H.D. 2, entitled: "HOUSE

CONCURRENT RESOLUTION ENCOURAGING THE DEPARTMENT OF LAND AND NATURAL RESOURCES AND HAWAII COMMUNITY DEVELOPMENT AUTHORITY TO LOCATE LAND SUITABLE TO CONSTRUCT A MOTORSPORTS CENTER ON THE ISLAND OF OAHU," was adopted.

H.C.R. No. 167:

On motion by Senator Espero, seconded by Senator Slom and carried, H.C.R. No. 167, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF AGRICULTURE TO CONVENE A WORKING GROUP TO EXAMINE THE FEDERAL 2008 FARM BILL AMENDMENT TO THE RICHARD B. RUSSELL NATIONAL SCHOOL LUNCH ACT," was adopted.

H.C.R. No. 173:

On motion by Senator Espero, seconded by Senator Slom and carried, H.C.R. No. 173, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO WORK WITH MOANALUA GARDENS FOUNDATION TO EXECUTE A MEMORANDUM OF UNDERSTANDING FOR THE USE OF KAMANANUI (MOANALUA) VALLEY FOR EDUCATIONAL AND CULTURAL PURPOSES," was adopted.

FINAL READING

Conf. Com. Rep. No. 1 (S.B. No. 98, S.D. 2, H.D. 1, C.D. 1):

Senator English moved that Conf. Com. Rep. No. 1 be adopted and S.B. No. 98, S.D. 2, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Baker.

Senator Slom rose to speak in opposition to the measure and said:

"I sat through the informational briefing and the hearings on this bill and saw the changes that took place. And while I certainly think parts of the bill that call for more public hearings and more public disclosure from the Public Utilities Commission are warranted, I do not like the overall tenor of the bill, which basically, I feel, is anti-competitive and which is going to continue to make sure that we have a monopoly in water carrier business within the State of Hawai'i. I think that was evidently clear. I think that is the wrong course for Hawai'i. We can instruct the Public Utilities Commission to explore certain areas, but when we require that they take certain action and make sure that we don't disturb the monopoly status that we have right now, I think that's harmful to businesses and to consumers throughout the state. Thank you."

Senator Baker rose to speak in support of the measure and said:

"Colleagues, it would be nice if our water carrier industries between and amongst the islands was as robust as the good Senator from Hawai'i Kai would like it to be. Unfortunately, we have many small ports and many small communities that would not be served if it were totally a free market and there were total competition. So, we do have a regulated market with regard to the movement of goods between the islands, and this measure makes sure that our small ports and our small communities are not going to be disadvantaged by not taking into account the requirements and restrictions for delivering goods to those areas. It's also going to make sure that we have an opportunity to continue to have the availability of barge service carrying agricultural products to and from the islands. Right now, it's the neighbor islands primarily that need to get their produce to O'ahu in order to sell it. And if we are really serious about

sustainable agriculture in our state, we need a measure like this. So, I encourage all of my colleagues to vote in favor of this very important piece of legislation. Mahalo."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 1 was adopted and S.B. No. 98, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO WATER CARRIERS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Slom). Excused, 1 (Ihara).

S.B. No. 1293, H.D. 2:

On motion by Senator Chun Oakland, seconded by Senator Ihara and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 1293, and S.B. No. 1293, H.D. 2, entitled: "A BILL FOR AN ACT MAKING EMERGENCY APPROPRIATIONS FOR THE DEPARTMENT OF HUMAN SERVICES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Slom). Excused, 1 (Ihara).

At this time, the Chair made the following announcements:

"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.

"Conferees will be named in accordance with the action sheet to be distributed to your offices later today."

ADJOURNMENT

At 11:45 a.m., on motion by Senator Espero, seconded by Senator Slom and carried, the Senate adjourned until 11:30 a.m., Tuesday, April 26, 2011.