

FORTY-THIRD DAY

Tuesday, April 3, 2012

The Senate of the Twenty-Sixth Legislature of the State of Hawai'i, Regular Session of 2012, convened at 11:36 a.m. with the President in the Chair.

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

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

At this time, Senator Galuteria introduced a group of students from the McKinley Community School for Adults and teachers Charlotte Dias and Blossom Hoffman who were seated in the gallery.

Senator Kim congratulated the Honorable Daniel K. Akaka, United States Senator, for receiving the Harry S. Truman Award by the National Guard Association of the United States, saluted him for his support for the Armed Forces, and thanked him for his service to Hawai'i and our nation. Also recognized were Senator Akaka's wife Millie and Brigadier General Joseph K. Kim.

Senator Galuteria also welcomed Senator Akaka's family and supporters including daughter Millannie Mattson; granddaughters Erin and Courtney Mattson; son Danny, Jr. and his wife Anna; granddaughter Kalei; son Gerard; son Alan; son Nick; Hawai'i staff Joan Ohashi (Chief of Staff), Mike Kitamura (State Director), Daphney Tong-Pave (Legislative Assistant), Shari Carter (Legislative Correspondent), Milton Hee (IT Specialist), Carlene Flores (Scheduler/Caseworker), Gladys Karr (Staff Assistant), Lola Williams (Staff Assistant); and Washington, D.C. staff Jessie Broder Van Dyke (Communications Director), Nick Ikeda, Sr. (Advisor for Military Affairs), Lopaka Baptiste (Legislative Assistant), Keone Nakoa (Speechwriter/Press Assistant), Matt Hasson (Defense Legislative Fellow), and Laurel Sakai (Legislative Assistant).

Senator Hee rose to make the following remarks:

"I would like to say a few words about our honoree, but would like to begin with a few words about the honoree's wife, Aunty Millie. We were at a funeral recently and she's sitting in the front pew with Senator Akaka, and as I came by to pay my respects, she said to me, 'How's your mother. I hear she's in the hospital.' And I say, 'She's getting better; thank you for asking.' And she looked up at me from the pew and she said, 'Your mother was so beautiful when she was younger.' I said, 'Thank you.' Then she said, 'What happened to you?' And I didn't know what to say. I also know that in summertime, there's a whole bunch of young people associated with Senator Akaka that play softball. And they all want to play, but there's too many, so they all fight to play. And then, Aunty Millie comes by, and they don't want to play. So, only the old timers play because they're immune to the criticism of 'how come you cannot hit the ball,' 'how come you cannot throw the ball.' But that's Aunty Millie.

"You know, I perhaps have known Senator Akaka as long as anyone because his oldest son Daniel and I are classmates at Kamehameha and we studied in 1959. I'm trying to think if Hawai'i was a state then when we started at Kamehameha. In any event, I have known him for such a long time and we have crossed paths many, many times; and of course, more recently with his unyielding and undeniable effort to pass legislation to assist all of Hawai'i, but in particular the Hawaiian people because he believes, like I do and many others do, that when you help the native people, you help all of Hawai'i. And that

effort has been a long struggle, and last year when the Legislature passed 1520 it was done so on the agreement, consideration, and approval of Senator Akaka. It was done so because when we went to see him—he was the first one who we went to see—and had he said he didn't think so, we would not have introduced the bill. In fact, he asked us to tweak the bill in other ways that was more in alignment with his thinking, and we are better for it today.

"Mr. President I would like to read a short statement that, for me, captures the essence of Senator Akaka. This was said:

There was nothing lacking in this great, rich country save the people to settle upon it, and develop its wealth. And yet this great and powerful [American] nation must go across two thousand miles of sea, and take from the poor Hawaiians their little spots in the broad Pacific, must covet our islands of Hawaii Nei, and extinguish the nationality of my poor people, many of whom have now not a foot of land which can be called their own. And for what? In order that another race-problem shall be injected into the social and political perplexities with which the United States in the great experiment of popular government is already struggling? [...] in order that a friendly and generous, yet proud-spirited and sensitive race, a race admittedly capable and worthy of receiving the best opportunities for material and moral progress, shall be crushed under the weight of a social order and prejudice with which even another century of preparation would hardly fit it to cope? It is for them that I would give the last drop of my blood. It is for them that I would spend, nay am spending, everything belonging to me. Will it be in vain?

"This was said by Queen Lili'uokalani as she tried in vain to appeal to the United States after the overthrow and illegal annexation of Hawai'i.

"I read this the other day and I thought of Senator Akaka because he has given the last drop of his public service to further the conditions of his native people with the understanding that when that is done, all of Hawai'i benefits. The question he asks, like the Last Queen asks: Will it be in vain? There's a line of a song that comes to my mind—na ke aloha i hanai mai—i ku'u lā pōloli ho'i. That is an old love song that says, 'but for your love, I would go hungry.' 'O ka 'ike iā 'oe e ke aloha—because I see you my love. Ho'i pono ka 'i'ini ia loko—that someday you will return to us and be a part of us forever.' It's with those two songs—'Pulupē' and 'Na Ke Aloha I Hanai Mai' the love you given to us—that one son of Hawai'i and the Senate of the State thanks you for your service to your Hawaiian people. Na ke akua e pomai. Aloha."

Senator Baker rose to make the following remarks:

"Mr. President, I, too, would like to thank Senator Akaka for his service, but I also want to thank him for the wonderful staff that he has assembled over the years who have provided valuable assistance to us if we've had immigration issues on behalf of our constituents; when we were trying to figure out how to get DSH (disproportionate share hospital) payments and DSH-like payments for our hospitals. If it hadn't been for the work of his staff over the years, I think a number of us would not have been able to serve our constituents as effectively as we had, and I thought I would be remiss if I didn't just add those mahalos on behalf of all of us, today. Thank you."

At 11:53 a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:10 p.m.

MESSAGE FROM THE GOVERNOR

The following message from the Governor (Gov. Msg. No. 235) was read by the Clerk and was placed on file:

Gov. Msg. No. 235, dated March 19, 2012, transmitting the 2010-2011 Annual Report of the Hawaii State Foundation on Culture and the Arts pursuant to Section 9-3, HRS.

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 347 to 353) were read by the Clerk and were disposed of as follows:

Hse. Com. No. 347, transmitting H.C.R. No. 92, which was adopted by the House of Representatives on April 2, 2012, was placed on file.

By unanimous consent, H.C.R. No. 92, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE PRESIDENT AND CONGRESS OF THE UNITED STATES TO ADOPT THE VETERANS REMEMBERED FLAG," was deferred.

Hse. Com. No. 348, transmitting H.C.R. No. 109, which was adopted by the House of Representatives on April 2, 2012, was placed on file.

By unanimous consent, H.C.R. No. 109, entitled: "HOUSE CONCURRENT RESOLUTION URGING CONGRESS TO CREATE A SEPARATE BRANCH OF THE UNITED STATES ARMED FORCES TO COMBAT CYBER CRIMES, CYBER WARFARE, AND CYBER TERRORISM," was deferred.

Hse. Com. No. 349, returning S.B. No. 2222, S.D. 2, as amended in H.D. 1, which passed Third Reading in the House of Representatives on April 2, 2012, was placed on file.

By unanimous consent, action on S.B. No. 2222, S.D. 2 (H.D. 1), entitled: "A BILL FOR AN ACT RELATING TO SEXUAL IMAGES PRODUCED BY MINORS," was deferred until Wednesday, April 4, 2012.

Hse. Com. No. 350, returning S.B. No. 2247, S.D. 2, as amended in H.D. 1, which passed Third Reading in the House of Representatives on April 2, 2012, was placed on file.

By unanimous consent, action on S.B. No. 2247, S.D. 2, (H.D. 1), entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SAFETY," was deferred until Wednesday, April 4, 2012.

Hse. Com. No. 351, returning S.B. No. 2518, S.D. 1, which passed Third Reading in the House of Representatives on April 2, 2012, was placed on file.

Hse. Com. No. 352, returning S.B. No. 2971, which passed Third Reading in the House of Representatives on April 2, 2012, was placed on file.

Hse. Com. No. 353, returning S.B. No. 3039, S.D. 1, as amended in H.D. 1, which passed Third Reading in the House of Representatives on April 2, 2012, was placed on file.

By unanimous consent, action on S.B. No. 3039, S.D. 1, (H.D. 1), entitled: "A BILL FOR AN ACT RELATING TO ANATOMICAL TRANSPLANTS," was deferred until Wednesday, April 4, 2012.

At this time, the Chair made the following announcement:

"For the members' information, the scope and membership of the Special Committee on Accountability - 01 was outlined and distributed to all members in memoranda dated February 7, 2012; February 9, 2012; and March 9, 2012. The Clerk is directed to place the same in the Journal." (The memoranda are identified as "**ATTACHMENT A**" to the Journal of this day.)

SPECIAL COMMITTEE REPORTS

Senator Kim, for the Senate Special Committee on Accountability - 01, presented a report (Spec. Com. Rep. No. 1) recommending that S.C.R. No. 34, as amended in S.D. 1, be adopted.

By unanimous consent, action on Spec. Com. Rep. No. 1 and S.C.R. No. 34, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE AUDITOR TO CONDUCT AUDITS OF STATE DEPARTMENT OPERATIONS THAT RESULT IN HIGH NON-BASE COMPENSATION OF STATE AND COUNTY EMPLOYEES, PAY FOR NOT WORKING, AND SALARY OVERPAYMENTS," was deferred until Wednesday, April 4, 2012.

Senator Kim, for the Senate Special Committee on Accountability - 01, presented a report (Spec. Com. Rep. No. 2) recommending that S.R. No. 21, as amended in S.D. 1, be adopted.

By unanimous consent, action on Spec. Com. Rep. No. 2 and S.R. No. 21, S.D. 1, entitled: "SENATE RESOLUTION REQUESTING THE AUDITOR TO CONDUCT AUDITS OF STATE DEPARTMENT OPERATIONS THAT RESULT IN HIGH NON-BASE COMPENSATION OF STATE AND COUNTY EMPLOYEES, PAY FOR NOT WORKING, AND SALARY OVERPAYMENTS," was deferred until Wednesday, April 4, 2012.

STANDING COMMITTEE REPORTS

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 3136) recommending that H.B. No. 2258, H.D. 2, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.B. No. 2258, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PROFESSIONAL AND VOCATIONAL LICENSING," passed Second Reading and was placed on the calendar for Third Reading on Thursday, April 5, 2012.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 3137) recommending that H.B. No. 2628, H.D. 2, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.B. No. 2628, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE RESIDENTIAL LANDLORD-TENANT CODE," passed Second Reading and was placed on the calendar for Third Reading on Wednesday, April 4, 2012.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 3138) recommending that H.B. No. 1965 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.B. No. 1965, entitled: "A BILL FOR AN ACT RELATING TO

CONTINUING EDUCATION FOR PHARMACISTS,” passed Second Reading and was placed on the calendar for Third Reading on Wednesday, April 4, 2012.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 3139) recommending that H.B. No. 2272, H.D. 2, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.B. No. 2272, H.D. 2, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO PROFESSIONS AND VOCATIONS,” passed Second Reading and was placed on the calendar for Third Reading on Thursday, April 5, 2012.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 3140) recommending that H.B. No. 2242, H.D. 1, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.B. No. 2242, H.D. 1, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO CONTINUING EDUCATION FOR VETERINARIANS,” passed Second Reading and was placed on the calendar for Third Reading on Thursday, April 5, 2012.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 3141) recommending that H.B. No. 1879, H.D. 2, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.B. No. 1879, H.D. 2, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE ONE CALL CENTER,” passed Second Reading and was placed on the calendar for Third Reading on Thursday, April 5, 2012.

Senator Tokuda, for the Committee on Education, presented a report (Stand. Com. Rep. No. 3142) recommending that H.B. No. 1054, H.D. 1, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.B. No. 1054, H.D. 1, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO EDUCATION,” passed Second Reading and was placed on the calendar for Third Reading on Thursday, April 5, 2012.

Senator Hee, for the Committee on Judiciary and Labor, presented a report (Stand. Com. Rep. No. 3143) recommending that H.B. No. 626, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.B. No. 626, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE HAWAII UNIFORM COLLABORATIVE LAW ACT,” passed Second Reading and was placed on the calendar for Third Reading on Thursday, April 5, 2012.

Senator Hee, for the Committee on Judiciary and Labor, presented a report (Stand. Com. Rep. No. 3144) recommending that H.B. No. 1771, H.D. 1, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.B. No. 1771, H.D. 1, S.D. 1, entitled: “A BILL FOR AN ACT

RELATING TO FELONIES FOR WHICH CRIMINAL CHARGES MAY BE INSTITUTED BY WRITTEN INFORMATION,” passed Second Reading and was placed on the calendar for Third Reading on Thursday, April 5, 2012.

Senator Hee, for the Committee on Judiciary and Labor, presented a report (Stand. Com. Rep. No. 3145) recommending that H.B. No. 2296, H.D. 1, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.B. No. 2296, H.D. 1, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO ANIMAL WELFARE,” passed Second Reading and was placed on the calendar for Third Reading on Thursday, April 5, 2012.

Senator Hee, for the Committee on Judiciary and Labor, presented a report (Stand. Com. Rep. No. 3146) recommending that H.B. No. 2587, H.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.B. No. 2587, H.D. 1, entitled: “A BILL FOR AN ACT RELATING TO SAILING SCHOOL VESSELS,” passed Second Reading and was placed on the calendar for Third Reading on Wednesday, April 4, 2012.

Senator Hee, for the Committee on Judiciary and Labor, presented a report (Stand. Com. Rep. No. 3147) recommending that H.B. No. 2686, H.D. 1, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.B. No. 2686, H.D. 1, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO CIVIL LIABILITY,” passed Second Reading and was placed on the calendar for Third Reading on Thursday, April 5, 2012.

Senator Hee, for the Committee on Judiciary and Labor, presented a report (Stand. Com. Rep. No. 3148) recommending that H.B. No. 2533, H.D. 2, pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 3148 and H.B. No. 2533, H.D. 2, entitled: “A BILL FOR AN ACT RELATING TO THE DEFINITION OF AGGRAVATED CIRCUMSTANCES IN THE CHILD PROTECTIVE ACT,” was deferred until Wednesday, April 4, 2012.

Senator Hee, for the Committee on Judiciary and Labor, presented a report (Stand. Com. Rep. No. 3149) recommending that H.B. No. 2162, H.D. 1, pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 3149 and H.B. No. 2162, H.D. 1, entitled: “A BILL FOR AN ACT RELATING TO UNIFORM COMMERCIAL CODE ARTICLE 9,” was deferred until Wednesday, April 4, 2012.

Senator Hee, for the Committee on Judiciary and Labor, presented a report (Stand. Com. Rep. No. 3150) recommending that H.B. No. 2181 pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 3150 and H.B. No. 2181, entitled: “A BILL FOR AN ACT RELATING TO VACANCIES,” was deferred until Wednesday, April 4, 2012.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 3151) recommending that H.B. No. 1964, H.D. 2 pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 3151 and H.B. No. 1964, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," was deferred until Wednesday, April 4, 2012.

Senator English, for the Committee on Transportation and International Affairs, presented a report (Stand. Com. Rep. No. 3152) recommending that S.C.R. No. 162, as amended in S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 3152 and S.C.R. No. 162, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION URGING HAWAII'S CONGRESSIONAL DELEGATION TO REQUEST THAT THE DIRECTOR OF THE OFFICE OF GLOBAL CHANGE OF THE UNITED STATES DEPARTMENT OF STATE PROPOSE TO THE CONFERENCE OF PARTIES FOR THE UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE THAT THE UNITED STATES HOST THE 2015 UNITED NATIONS CLIMATE CHANGE CONFERENCE IN HONOLULU, HAWAII," was deferred until Wednesday, April 4, 2012.

Senators Chun Oakland and Espero, for the Committee on Human Services and the Committee on Public Safety, Government Operations, and Military Affairs, presented a joint report (Stand. Com. Rep. No. 3153) recommending that S.R. No. 8 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 3153 and S.R. No. 8, entitled: "SENATE RESOLUTION REQUESTING HAWAII'S CONGRESSIONAL DELEGATION TO SUPPORT THE EFFORTS OF THE NATIONAL WOMEN'S HISTORY MUSEUM TO SECURE A PERMANENT HOME IN THE NATION'S CAPITAL," was deferred until Wednesday, April 4, 2012.

Senators Chun Oakland and Espero, for the Committee on Human Services and the Committee on Public Safety, Government Operations, and Military Affairs, presented a joint report (Stand. Com. Rep. No. 3154) recommending that S.C.R. No. 8 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 3154 and S.C.R. No. 8, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING HAWAII'S CONGRESSIONAL DELEGATION TO SUPPORT THE EFFORTS OF THE NATIONAL WOMEN'S HISTORY MUSEUM TO SECURE A PERMANENT HOME IN THE NATION'S CAPITAL," was deferred until Wednesday, April 4, 2012.

Senators Baker and Fukunaga, for the Committee on Commerce and Consumer Protection and the Committee on Economic Development and Technology, presented a joint report (Stand. Com. Rep. No. 3155) recommending that S.C.R. No. 97, as amended in S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 3155 and S.C.R. No. 97, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE INSURANCE COMMISSIONER TO CONVENE A WORKING GROUP TO EXPLORE THE CREATION OF A WEB SERVICES-BASED DATABASE PROGRAM TO TRACK UNINSURED MOTORISTS," was deferred until Wednesday, April 4, 2012.

Senator English, for the Committee on Transportation and International Affairs, presented a report (Stand. Com. Rep. No. 3156) recommending that S.C.R. No. 73 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 3156 and S.C.R. No. 73, entitled: "SENATE CONCURRENT RESOLUTION URGING THE UNITED NATIONS TO

GRANT TAIWAN PARTICIPATION AS AN OBSERVER IN THE UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE CONFERENCE OF THE PARTIES MEETINGS," was deferred until Wednesday, April 4, 2012.

Senator English, for the Committee on Transportation and International Affairs, presented a report (Stand. Com. Rep. No. 3157) recommending that S.R. No. 32 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 3157 and S.R. No. 32, entitled: "SENATE RESOLUTION URGING THE UNITED NATIONS TO GRANT TAIWAN PARTICIPATION AS AN OBSERVER IN THE UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE CONFERENCE OF THE PARTIES MEETINGS," was deferred until Wednesday, April 4, 2012.

ORDER OF THE DAY

AGREE/DISAGREE

MATTERS DEFERRED FROM MONDAY, APRIL 2, 2012

S.B. No. 2503, S.D. 1 (H.D. 1):

Senator Hee moved that the Senate agree to the amendments proposed by the House to S.B. No. 2503, S.D. 1, seconded by Senator Shimabukuro.

Senator Hee noted:

"The House did some technical changes that do not change the substantive issue of the bill; and therefore, I would recommend that the Senate agree to the House changes."

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2503, S.D. 1, and S.B. No. 2503, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ANIMAL CRUELTY," was placed on the calendar for Final Reading on Wednesday, April 4, 2012.

S.B. No. 3029, S.D. 1 (H.D. 1):

Senator Hee moved that the Senate agree to the amendments proposed by the House to S.B. No. 3029, S.D. 1, seconded by Senator Shimabukuro.

Senator Hee noted:

"Once again, the House made some technical amendments which seem to make the bill a little bit better with some clarity."

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 3029, S.D. 1, and S.B. No. 3029, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO STATUTORY REVISION: AMENDING VARIOUS PROVISIONS OF THE HAWAII REVISED STATUTES AND THE SESSION LAWS OF HAWAII FOR THE PURPOSE OF CORRECTING ERRORS AND REFERENCES AND CLARIFYING LANGUAGE," was placed on the calendar for Final Reading on Wednesday, April 4, 2012.

ADOPTION OF RESOLUTIONS

MATTERS DEFERRED FROM MONDAY, APRIL 2, 2012

Stand. Com. Rep. No. 3077 (S.R. No. 51, S.D. 1):

By unanimous consent, Stand. Com. Rep. No. 3077 and S.R. No. 51, S.D. 1, entitled: "SENATE RESOLUTION REQUESTING THE SENATE COMMITTEES ON HAWAIIAN AFFAIRS AND ECONOMIC DEVELOPMENT AND TECHNOLOGY TO CONVENE A SPECIAL TASK

FORCE ON HAWAIIAN HISTORICAL SITES PRESERVATION,” were recommitted jointly to the Committee on Hawaiian Affairs and the Committee on Economic Development and Technology.

Stand. Com. Rep. No. 3078 (S.C.R. No. 107, S.D. 1):

By unanimous consent, Stand. Com. Rep. No. 3078 and S.C.R. No. 107, S.D. 1, entitled: “SENATE CONCURRENT RESOLUTION REQUESTING THE SENATE COMMITTEES ON HAWAIIAN AFFAIRS AND ECONOMIC DEVELOPMENT AND TECHNOLOGY TO CONVENE A SPECIAL TASK FORCE ON HAWAIIAN HISTORICAL SITES PRESERVATION,” were recommitted jointly to the Committee on Hawaiian Affairs and the Committee on Economic Development and Technology.

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

The Senate reconvened at 12:14 p.m.

ADVISE AND CONSENT

Stand. Com. Rep. No. 3133 (Gov. Msg. No. 750):

Senator Baker moved that Stand. Com. Rep. No. 3133 be received and placed on file, seconded by Senator Taniguchi and carried.

Senator Baker then moved that the Senate advise and consent to the nomination of EDWARD AKIONA to the Board of Private Detectives and Guards, term to expire June 30, 2016, seconded by Senator Taniguchi.

Senator Baker rose to speak in support of the nominee as follows:

“These were nominations that came from my subject matter committee—Commerce and Consumer Protection—they are all well-qualified for the positions to which they have been nominated, and I urge my colleagues to support them.”

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

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

Stand. Com. Rep. No. 3134 (Gov. Msg. No. 675):

Senator Baker moved that Stand. Com. Rep. No. 3134 be received and placed on file, seconded by Senator Taniguchi and carried.

Senator Baker then moved that the Senate advise and consent to the nomination of RICHARD J.Y. LOUIS to the Elevator Mechanics Licensing Board, term to expire June 30, 2016, seconded by Senator Taniguchi.

Senator Baker rose to speak in support of the nominee as follows:

“These were nominations that came from my subject matter committee—Commerce and Consumer Protection—they are all well-qualified for the positions to which they have been nominated, and I urge my colleagues to support them.”

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

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

Stand. Com. Rep. No. 3135 (Gov. Msg. Nos. 618, 620, 621, 622, 623, 624, 625, 626, 628, and 643):

Senator Baker moved that Stand. Com. Rep. No. 3135 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 Board of Directors of the Hawai'i Health Connector of the following:

SHERRY MENOR-MCNAMARA, term to expire June 30, 2015 (Replaces Gov. Msg. No. 607) (Gov. Msg. No. 618);

ROBERT HIROKAWA, term to expire June 30, 2014 (Replaces Gov. Msg. No. 609) (Gov. Msg. No. 620);

CLIFFORD ALAKAI, term to expire June 30, 2016 (Replaces Gov. Msg. No. 610) (Gov. Msg. No. 621);

GWEN RULONA, term to expire June 30, 2014 (Replaces Gov. Msg. No. 611) (Gov. Msg. No. 622);

CHRISTINE SAKUDA, term to expire June 30, 2015 (Replaces Gov. Msg. No. 612) (Gov. Msg. No. 623);

JOAN DANIELEY, term to expire June 30, 2015 (Replaces Gov. Msg. No. 613) (Gov. Msg. No. 624);

JENNIFER DIESMAN, term to expire June 30, 2014 (Replaces Gov. Msg. No. 614) (Gov. Msg. No. 625);

MICHAEL GLEASON, term to expire June 30, 2015 (Replaces Gov. Msg. No. 615) (Gov. Msg. No. 626);

FAYE KURREN, term to expire June 30, 2014 (Replaces Gov. Msg. No. 617) (Gov. Msg. No. 628); and

CLEMENTINA CERIA-ULEP, term to expire June 30, 2014 (Gov. Msg. No. 643),

seconded by Senator Taniguchi.

Senator Slom rose to speak in opposition to the nominees as follows:

“Mr. President, I do so saying as I did in committee: It has absolutely nothing to do with the individual character, experience, or integrity of the nominees, which I find to be of the highest. It does, however, have to do with the establishment of the Health Connector Board itself and the fact that issues involving conflicts of interest and exemptions from the ethics rules were brought up during committee, and a number of people felt that they did not have adequate time in which to address these issues. So, I'll be casting a 'no' vote this time. Thank you.”

Senator Baker rose to speak in strong support of the nominees as follows:

“Because some questions have been raised about some of the nominees and even the Connector itself, I would like to offer some background. Hawai'i's Health Insurance Exchange is called the Hawai'i Health Connector. It was established by Act 205, SLH 2011, to implement the insurance exchange provisions of the Affordable Care Act.

“Hawai'i began working to establish an insurance exchange in the 2010 interim when the Lingle administration was persuaded to submit a federal grant to explore planning an exchange in Hawai'i. The insurance division of DCCA submitted the grant and worked with the Legislature and others to cast a wide net to all potential stakeholders to come together as a working group. Meetings were noticed and minutes circulated. Based on federal timelines and working with the new administration, the Senate proposed a bill that became Act 205 and established the framework for Hawai'i's health insurance exchange—the Connector. The Governor appointed the interim board that adopted the same procedures that the insurance commissioner had used for the meetings he convened.

“Until recently, the Connector did not have access to the federal grant funds although the federal regulators had

determined and deemed that the Connector established by Act 205 was quasi-governmental, utilizing the criteria included in the Federal Funding Opportunity Announcement for the establishment grant. This determination was made because the Connector was established by the Legislature and overseen by the Legislature. The State Auditor is required to do annual audits. As a quasi-governmental entity, Hawai'i's exchange is eligible to have the grant funds transferred to the Connector. As a result of the way the grant was awarded to Hawai'i with some restricted funds, along with the funding pass-through challenges, the Connector has spent a couple of months untethering the funds that it needs to access to stand up the organization. This is the priority focus over the next 4-6 weeks along with focusing on a critical grant review meeting during the second week of June. Like most start-ups, these early steps are critical, time-compressed, and require a focused effort. As a result, the Connector got a slower start than we had hoped and that may be the source of some of the concerns that your committee and others have heard. The organization known as the Connector did not spring forth fully formed and functional; it is still in the process of standing itself up and all systems are not fully developed. It seems to me that we have a great and wonderful opportunity to work with and get behind the Connector to ensure its success.

“So what is the Connector—it is an internet portal—an electronic, e-commerce marketplace to connect those without insurance to qualified health plans. It will also serve as the access point for Medicaid eligibility and enrollment determinations. It is NOT a regulatory body; it is not a health reform policy body. The insurance commissioner—per Act 205—retains all authority to regulate health care plans in Hawai'i, to set rates and premiums and to determine the eligibility of plans to be sold by the Connector. The board of directors of the Connector does not have any regulatory authority over health plans, rates, reimbursements, premiums or designation of plans to be included in the Connector. All qualified plans as determined by the insurance commissioner must be allowed to be sold thru the Connector. By the way, no Medicare plans will be sold thru the Connector, either. Let me reiterate—because this information seems to be lost on the opponents of both the board and the Connector—the Connector has no regulatory authority over health insurance plans and all qualified plans, as determined by the Insurance Commission, must be allowed to be sold via the Connector.

“Additionally, according to both Act 205 and federal law/regulations, the board must be transparent in its operations, have conflict of interest policies and procedures for recusal; financial disclosures, and post its meetings, agenda, and minutes on the website. Mahalo to Senator Chun Oakland for her assistance in getting the information out to interested consumer groups while the website is being fully launched and populated with information. Please remember that the Connector is not yet one year old! (And has had access to funding for only a few months.) I know that the Connector Board will work diligently to live up to both the letter and spirit of the law and reach out much more effectively to consumer groups.

“There has been a question regarding the composition of the Connector Board. Federal regulations allow for providers of care as well as insurance plan or agents to be a part of the exchange boards. Those types of representatives may not be in the majority (and they are not on the Connector Board either). There must be at least one designated consumer representative and a simple majority of the board should not be potentially conflicted members. Our board meets these criteria. Let's review the members of the Connector Board that we are about to vote on. There are a total of 15 members of the Connector, 4 of whom are government representatives. I believe it is a balanced board and representative of all stakeholders with a

consumer majority and expertise from other areas that will help the Connector succeed for all consumers in Hawai'i. Initially the board is to address individuals and small groups who are without insurance. Here is the delineation of the board's membership:

- Sherry Menor McNamara – employers and consumers are her base. She is the Interim Board chair.
- Robert Hirokawa, the Executive Director of Hawaii Primary Care Association. His organization and his background deal with primary health care centers. He has a degree in public health, and it's these organizations who deal with the underinsured and uninsured that are the initial consumers for the board. He is the Interim Board vice chair.
- Mike Gleason represents consumers. He is the executive director of the ARC of Hilo (geographic diversity that the statute requires.) He chairs the outreach group, and he will be pivotal as the Connector sets up the navigation program, the call center, and vets the internet interface.
- Clementina Ceria-Ulep – a nurse educator by profession who has advocated for and worked in underserved communities in Hawai'i all of her life. Consumers are her focus and was recommended by FACE.
- Gwen Rulona – United Food and Commercial Workers union agent – consumers are her focus. She also brings experience having been part of her union's health fund board; and even though her members initially might not be covered by the Connector, with unemployment and other activities happening, her members could well find themselves needing the services of the Connector.
- Christine Sakuda – executive director of the Hawai'i Information Exchange. She shares with the Hawai'i Health Connector the technical expertise of having to stand up an entity similar to the Connector, especially from the IT and systems start up perspective.
- Clifford Alakai – He's from Maui, and serves as the Interim Board's treasurer because of his financial/accounting background. He is the CFO of Maui Medical Group, a group of health care providers—doctors, technicians, nurses, and others—on Maui.
- Joan Danieleley – Kaiser Permanente. Her background in health plan startups and systems work. She has helped to start up these kinds of organizations in the past, and her expertise will be invaluable.
- Jennifer Diesman – HMSA – has a background in working with a variety of nonprofits in our community, as well as on health policy for over 13 years.
- Faye Kurren is the CEO for the Hawaii Dental Service. She is the dental insurance provider that is listed in Act 205.
- The eleventh member to be considered by your Committee on Commerce and Consumer Protection on April 4 is Hardy Spoehr, CEO of Papa Ola Lokahi – native Hawaiian Health Systems – and he will bring that important component on how to outreach in our ethnic community, particularly Native Hawaiians who may have some of the highest uninsurance rates in a way that's culturally-sensitive as well as helps them feel comfortable working in this electronic environment required by the federal statute.
- The four government representatives who are voting members have already been confirmed – Insurance

Commissioner, DOH director or designee, DHS director or designee, and DLIR director or designee.

“We have some very tight deadlines looming ahead. The nonprofit was established in August 2011. The federal regulators must now accept our plan moving forward with our interface and consumer outreach and others by January 2013, and the Connector must be up and running by January 1, 2014. There is not a lot of time to waste. If our plan is not accepted by 2013, the federal government will impose their template on Hawai‘i. I have always believed that we need to be in charge of our own destiny as best we can. Any uncertainty on our board or its mission will not be helpful for Hawai‘i going forward.

“This is an exciting time in the health insurance space in our country. Regardless of what the Supreme Court decides, the insurance exchange in Hawai‘i—Hawaii’s Health Connector—can help us drive down the number of uninsured in our state. With our Prepaid Health Act, which is an overlay on top of the Connector, we’ve always had some of the lowest uninsured rates, but as we’ve seen with having to deal with high unemployment and other kinds of issues, we’re inching back up. The Health Connector can help drive that rate down because not only will individuals have an opportunity to have their Medicaid eligibility determined, but there are a variety of subsidized plans that will be available to consumers as well. Having the navigation program and consumer outreach is absolutely critical, and I think all of us share a desire to make that be as successful as possible. It will not transform the payment for services, it won’t take us to single payer, but it will help drive down costs by helping folks have a medical home that isn’t the ER—the most expensive service delivery—and will help folks that do not have insurance or are perhaps underinsured get a better plan to get the preventive care that will help save lives and ultimately reduce costs to all in the system.

“I know there has been a lot of churn in some quarters because some want the Connector to be something it simply isn’t. I’m asking you to join me to help expand the number of insured lives we have in Hawai‘i by confirming the board of the Hawaii Health Connector to implement the exchange framework established in Act 205 and the Affordable Care Act.

“The committee report outlines much of what I’ve relayed today. If any colleagues need additional information, I would be happy to provide you with further information and try to address any concerns that you may have. I believe the members of the Consumer Protection Committee who were present for the hearing and the committee vote can attest that the nominees were questioned rigorously and responded in a way that assured integrity, an understanding of their individual fiduciary and operational responsibility to the Connector, and their individual and collective desire to have the Connector succeed to benefit all of Hawai‘i. As with most federal programs, there will be tweaks along the way. I look forward to working with the Connector Board and all of you to ensure that the Connector is successful in its mission and the people of Hawai‘i are its beneficiaries. Mahalo.”

Senator Ihara rose to make the following remarks:

“I have reservations on GM 618 and have remarks for the other nominees to the Hawai‘i Connector Board. I will be voting ‘no’ on the insurer nominees because I believe they have financial conflicts of interest. Since the controversy over some of the nominees arose after Senate passed SB2434, none of the nominees have contacted me and many other Senators to give us the opportunity to interview them about the controversy. I have met with two nominees, the Chair and a recent nominee, at my initiation, and I have requested the courtesy of a one-day deferral on this vote so that I can speak and initiate meetings with the other nominees, and I note that there are more than

four weeks left before this vote needs to be taken. I regret that my request has been declined, and I hope that in the future other such requests from other Senators are honored.

“A final note on my ‘no’ vote for the three insurer nominees who are employed by the state’s largest health insurers: I believe that the employers of these insurer nominees have a financial conflict of interest. Finally, by giving these insurers a seat at the exchange governing board, I believe it gives them an unfair advantage over the other insurers who do not have a seat at the Board. Thank you.”

At 12:32 p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:33 p.m.

Senator Chun Oakland rose to request that remarks in support of the nominees be entered into the Journal, and the Chair so ordered.

The Chair having so ordered, Senator Chun Oakland’s remarks read as follows:

“I believe that the individuals who have been nominated to the Health Connector Board are well qualified to serve. My hope is that the welfare of the people of Hawai‘i is always at the forefront of their minds as they deliberate on each and every decision made on the Connector Board. The financial interests of their employers must be put aside.

“My wish is that we will closely evaluate Act 205 in its entirety and make sure that, as structured, we as a Legislature can amend the law where Hawaii’s insurance exchange can be a model of integrity, fairness, and the protector of consumers’ interests and well-being. Mahalo.”

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

Gov. Msg. No. 618:

Ayes, 23; Ayes with Reservations (Ihara). Noes, 1 (Slom). Excused, 1 (Solomon).

Gov. Msg. Nos. 620, 621, 622, 623, 626, and 643:

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

Gov. Msg. No. 624, 625, and 628:

Ayes, 22. Noes, 2 (Ihara, Slom). Excused, 1 (Solomon).

At this time, Senator Baker introduced Sherry Menor-McNamara and Jennifer Diesman, newly confirmed members of the Hawai‘i Health Connector Board of Directors, as well as Coral Andrews, Executive Director of the Connector, and Beth Giesting, Department of Health representative.

ADOPTION OF RESOLUTIONS

MATTERS DEFERRED FROM MONDAY, APRIL 2, 2012

Stand. Com. Rep. No. 3130 (S.C.R. No. 157, S.D. 1):

On motion by Senator Espero, seconded by Senator Slom and carried, the joint report of the Committees was adopted and S.C.R. No. 157, S.D. 1, entitled: “SENATE CONCURRENT RESOLUTION REQUESTING THE ESTABLISHMENT OF A TASK FORCE TO EXAMINE STATE REGULATION OF THE HARVESTING OF HAWAIIAN SANDALWOOD,” was adopted.

Stand. Com. Rep. No. 3131 (S.R. No. 93, S.D. 1):

On motion by Senator Espero, seconded by Senator Slom and carried, the joint report of the Committees was adopted and S.R. No. 93, S.D. 1, entitled: “SENATE RESOLUTION

REQUESTING THE ESTABLISHMENT OF A TASK FORCE TO EXAMINE STATE REGULATION OF THE HARVESTING OF HAWAIIAN SANDALWOOD," was adopted.

Stand. Com. Rep. No. 3132 (S.R. No. 25, S.D. 1):

On motion by Senator Espero, seconded by Senator Slom and carried, the joint report of the Committees was adopted and S.R. No. 25, S.D. 1, entitled: "SENATE RESOLUTION URGING THE PUBLIC LAND DEVELOPMENT CORPORATION TO IDENTIFY PUBLIC TRUST LAND ON THE ISLANDS OF HAWAII AND MAUI WITH GEOTHERMAL RESOURCES THAT MAY BE DEVELOPED AND TO WORK WITH THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO DEVELOP AND IMPLEMENT GEOTHERMAL DEVELOPMENT PROJECTS ON PUBLIC TRUST LAND ON THE ISLANDS OF HAWAII AND MAUI," was adopted.

At this time, the Chair made the following announcement:

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

REFERRAL OF HOUSE CONCURRENT RESOLUTIONS

The President made the following committee assignments of House concurrent resolutions received on Monday, April 2, 2012:

H.C.R. No.:	Referred to:
H.C.R. No. 37	Jointly to the Committee on Public Safety, Government Operations, and Military Affairs and the Committee on Economic Development and Technology, then to the Committee on Commerce and Consumer Protection
H.C.R. No. 39	Jointly to the Committee on Transportation and International Affairs and the Committee on Public Safety, Government Operations, and Military Affairs
H.C.R. No. 48, H.D. 1	Committee on Agriculture
H.C.R. No. 142	Committee on Water, Land, and Housing
H.C.R. No. 143	Committee on Water, Land, and Housing
H.C.R. No. 144	Jointly to the Committee on Water, Land, and Housing and the Committee on Public Safety, Government Operations, and Military Affairs
H.C.R. No. 150	Committee on Health
H.C.R. No. 186	Jointly to the Committee on Economic Development and Technology and the Committee on Water, Land, and Housing

RE-REFERRAL OF A HOUSE BILL

The Chair re-referred the following House bill that was received:

H.B. No.:	Re-referred to:
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H.B. No. 254, H.D. 1	Jointly to the Committee on Health and the Committee on Judiciary and Labor
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RE-REFERRAL OF SENATE CONCURRENT RESOLUTIONS

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

S.C.R. No.:	Re-referred to:
S.C.R. No. 91	Jointly to the Committee on Agriculture and the Committee on Economic Development and Technology
S.C.R. No. 107, S.D. 1	Jointly to the Committee on Energy and Environment and the Committee on Water, Land, and Housing and the Committee on Ways and Means
S.C.R. No. 174	Jointly to the Committee on Water, Land, and Housing and the Committee on Tourism and the Committee on Transportation and International Affairs

RE-REFERRAL OF SENATE RESOLUTIONS

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

S.R. No.:	Re-referred to:
S.R. No. 51, S.D. 1	Jointly to the Committee on Hawaiian Affairs and the Committee on Economic Development and Technology and the Committee on Ways and Means
S.R. No. 104	Jointly to the Committee on Water, Land, and Housing and the Committee on Tourism and the Committee on Transportation and International 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. 2564, S.D. 1.

Senator Hee noted:

"What this bill does is provide volunteer medical assistance services for pharmacists who volunteer at medical disasters or emergencies."

The Chair granted the waiver.

ADJOURNMENT

At 12:38 p.m., on motion by Senator Espero, seconded by Senator Slom and carried, the Senate adjourned until 11:30 a.m., Wednesday, April 4, 2012.

ATTACHMENT A

Office of the President
The Senate
State of Hawaii
State Capitol
Honolulu, Hawaii
96813



February 7, 2012

MEMORANDUM

TO: All Senators

FROM: Shan S. Tsutsui 
Senate President

RE: Special Committee on Accountability, Senate Rule 20

Pursuant to Senate Rule 20, I hereby appoint a Special Committee on Accountability to conduct an informational briefing or briefings, as may be necessary, to review the issue of the overpayment of salaries by the Department of Accounting and General Services. The Special Committee on Accountability shall be comprised of the following:

1. Chair: Senator Donna Mercado Kim
2. Vice Chair: Senator Will Espero
3. Members: Senator Les Ihara, Jr.
Senator Ronald Kouchi
Senator Sam Slom

Thank you for your cooperation. Please contact my office if you have any questions or concerns.

cc: Senate Clerk
SMA Director
SMO

Senator Shan S. Tsutsui
State Capitol, Room 409
415 South Beretania Street • Honolulu, HI 96813
Phone: (808) 586-7344 • Fax: (808) 586-7348
sentsutsui@capitol.hawaii.gov

Office of the President
The Senate
State of Hawaii
State Capitol
Honolulu, Hawaii
96813



February 9, 2012

MEMORANDUM

TO: All Senators

FROM: Shan S. Tsutsui
Senate President

RE: Special Committee on Accountability, Senate Rule 20- Revised Jurisdiction

Pursuant to Senate Rule 20, I hereby appoint a Special Committee on Accountability to conduct an informational briefing or briefings, as may be necessary, to review the issue of the overpayment of salaries by the Department of Accounting and General Services and issues regarding government employee compensation. The Special Committee on Accountability shall be comprised of the following:

1. Chair: Senator Donna Mercado Kim
2. Vice Chair: Senator Will Espero
3. Members: Senator Les Ihara, Jr.
Senator Ronald Kouchi
Senator Sam Slom

Thank you for your cooperation. Please contact my office if you have any questions or concerns.

cc: Senate Clerk
SMA Director
SMO

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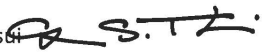
Office of the President
The Senate
State of Hawaii
State Capitol
Honolulu, Hawaii
96813



March 9, 2012

MEMORANDUM

TO: All Senators

FROM: Shan S. Tsutsui 
Senate President

RE: SCA01 Committee Membership

Pursuant to Senate Rule 20, I hereby appoint Senator Clayton Hee to serve as a committee member on SCA01, the Special Committee on Accountability established pursuant to a memorandum dated February 7, 2012.

Please contact my office if you have any questions or concerns.

cc: Senate Clerk
SMA Director
SMO

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