

FIFTY-THIRD DAY

Friday, April 20, 2012

The Senate of the Twenty-Sixth Legislature of the State of Hawai'i, Regular Session of 2012, convened at 11:34 a.m. with the President in the Chair.

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

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

At this time, Senator Solomon introduced members of the Honoka'a Jazz Band who were touring O'ahu as part of National Jazz Month, and congratulated them on being named a GRAMMY Signature School. Senator Solomon also recognized and congratulated teacher Gary Washburn on being named a Claes Nobel Educator of Distinction by the National Society of High School Scholars, and noted the presence of parent supporters in the gallery.

Senator Slom rose on a point of personal information to note that his office manager Mel Ah Ching was from Honoka'a, and acknowledged the democratic nature of jazz that Senator Solomon had shared with the members.

Senator Kouchi rose on a point of personal privilege to note that his mother's family hails from Honoka'a as well, and requested that a special song be dedicated to Senator Solomon.

At 11:45 a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:54 a.m.

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 238, 924, and 1129) were read by the Clerk and were placed on file:

Gov. Msg. No. 238, dated April 16, 2012, transmitting the Quarterly Report on the Progress Made of All DOE's CIP Appropriations, prepared by the Department of Education pursuant to Act 164, SLH 2011.

Gov. Msg. No. 924, informing the Senate that on April 19, 2012, the Governor withdrew JESSICA SCHLAIS, Gubernatorial Nominee to the Health Planning Council, West O'ahu Subarea, from consideration by the Senate (Gov. Msg. No. 718).

Gov. Msg. No. 1129, informing the Senate that on April 19, 2012, the Governor signed into law House Bill No. 2600, H.D. 2 as Act 29, entitled: "RELATING TO CONTROLLED SUBSTANCES."

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 630 to 641) were read by the Clerk and were placed on file:

Hse. Com. No. 630, returning S.C.R. No. 116, which was adopted by the House of Representatives on April 19, 2012.

Hse. Com. No. 631, informing the Senate that on April 19, 2012, the House reconsidered its action taken on March 27, 2012, in disagreeing to the amendments proposed by the Senate to H.B. No. 1754, H.D. 1 (S.D. 1).

Hse. Com. No. 632, informing the Senate that on April 19, 2012, the House reconsidered its action taken on April 3, 2012,

in disagreeing to the amendments proposed by the Senate to H.B. No. 2169, H.D. 2 (S.D. 1).

Hse. Com. No. 633, informing the Senate that on April 19, 2012, the House reconsidered its action taken on April 12, 2012, in disagreeing to the amendments proposed by the Senate to the following House bills:

H.B. No. 297, H.D. 1 (S.D. 1);
H.B. No. 626 (S.D. 1);
H.B. No. 1671, H.D. 2 (S.D. 2);
H.B. No. 1967, H.D. 2 (S.D. 2);
H.B. No. 2374 (S.D. 1);
H.B. No. 2454, H.D. 1 (S.D. 1);
H.B. No. 2574, H.D. 1 (S.D. 1); and
H.B. No. 2656, H.D. 2 (S.D. 2).

Hse. Com. No. 634, informing the Senate that on April 19, 2012, 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. 240, S.D. 2 (H.D. 2):

Representatives Yamane, M. Lee, co-chairs; Morikawa, Pine.

Hse. Com. No. 635, informing the Senate that on April 19, 2012, the Speaker appointed conferees on the part of the House for the consideration of amendments proposed by the Senate to the following House bill:

H.B. No. 1054, H.D. 1 (S.D. 1):

Representatives Takumi, Yamashita, co-chairs; Hashem, Mizuno, Johanson.

Hse. Com. No. 636, informing the Senate that on April 19, 2012, 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. 243, S.D. 2 (H.D. 1):

Representatives Nishimoto, Tokioka, co-chairs; Nakashima, Saiki, Johanson.

Hse. Com. No. 637, informing the Senate that on April 19, 2012, the House made the following changes to the conferees on the following Senate bill:

S.B. No. 1065, S.D. 1 (H.D. 1):

Representative Awana added as a conferee.

Hse. Com. No. 638, informing the Senate that on April 19, 2012, the House discharged all conferees to H.B. No. 2454, H.D. 1 (S.D. 1).

Hse. Com. No. 639, informing the Senate that on April 19, 2012, the House discharged all conferees to H.B. No. 2374 (S.D. 1).

Hse. Com. No. 640, informing the Senate that on April 19, 2012, 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. 1382, S.D. 2 (H.D. 1):

Representatives Nishimoto, Takumi, Yamashita, Tokioka, co-chairs; Belatti, Nakashima, Johanson.

Hse. Com. No. 641, informing the Senate that on April 19, 2012, the Speaker appointed conferees on the part of the House

for the consideration of amendments proposed by the Senate to the following House bill:

H.B. No. 2152, H.D. 2 (S.D. 2):

Representatives Rhoads, McKelvey, Oshiro, co-chairs; Yamashita, Johanson.

SENATE CONCURRENT RESOLUTION

The following concurrent resolution (S.C.R. No. 176) was read by the Clerk and was disposed of as follows:

S.C.R. No. 176 "SENATE CONCURRENT RESOLUTION REQUESTING THE GOVERNOR TO RETURN SENATE BILL NO. 650, H.D. 1, TO THE SENATE TO RECONSIDER ACTION TAKEN."

Offered by: Senator Tsutsui.

On motion by Senator Espero, seconded by Senator Slom and carried, S.C.R. No. 176 was adopted.

STANDING COMMITTEE REPORT

Senator Espero, for the Committee on Public Safety, Government Operations, and Military Affairs, presented a report (Stand. Com. Rep. No. 3542) recommending that H.C.R. No. 92, as amended in S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 3542 and H.C.R. No. 92, S.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE PRESIDENT AND CONGRESS OF THE UNITED STATES TO CREATE AND ADOPT AN APPROPRIATE FLAG HONORING VETERANS," was deferred until Monday, April 23, 2012.

ORDER OF THE DAY

ADVISE AND CONSENT

Stand. Com. Rep. No. 3535 (Gov. Msg. Nos. 645 and 646):

Senator Hee moved that Stand. Com. Rep. No. 3535 be received and placed on file, seconded by Senator Ihara and carried.

Senator Hee then moved that the Senate advise and consent to the nominations to the Civil Rights Commission of the following:

WALLACE FUKUNAGA, term to expire June 30, 2016 (Gov. Msg. No. 645); and

KIM COCO IWAMOTO, term to expire June 30, 2016 (Gov. Msg. No. 646),

seconded by Senator Ihara.

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

Ayes, 22. Noes, none. Excused, 3 (Gabbard, Kahele, Shimabukuro).

Stand. Com. Rep. No. 3536 (Gov. Msg. Nos. 826 and 827):

By unanimous consent, action on Stand. Com. Rep. No. 3536 and Gov. Msg. Nos. 826 and 827 was deferred until Wednesday, April 25, 2012.

Stand. Com. Rep. No. 3537 (Gov. Msg. Nos. 863, 864, and 865):

By unanimous consent, action on Stand. Com. Rep. No. 3537 and Gov. Msg. Nos. 863, 864, and 865 was deferred until Wednesday, April 25, 2012.

Stand. Com. Rep. No. 3538 (Gov. Msg. Nos. 873, 874, and 875):

By unanimous consent, action on Stand. Com. Rep. No. 3538 and Gov. Msg. Nos. 873, 874, and 875 was deferred until Wednesday, April 25, 2012.

ADOPTION OF RESOLUTIONS

MATTERS DEFERRED FROM THURSDAY, APRIL 19, 2012

Stand. Com. Rep. No. 3539 (H.C.R. No. 142):

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 142, entitled: "HOUSE CONCURRENT RESOLUTION AUTHORIZING THE ISSUANCE OF A TERM, NON-EXCLUSIVE EASEMENT COVERING A PORTION OF STATE SUBMERGED LANDS AT HONOKAWAI, LAHAINA, MAUI, FOR SEAWALL PURPOSES," was adopted.

Stand. Com. Rep. No. 3540 (H.C.R. No. 143, S.D. 1):

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 143, S.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION AUTHORIZING THE ISSUANCE OF A TERM, NON-EXCLUSIVE EASEMENT, COVERING A PORTION OF STATE SUBMERGED LANDS AT MAHINAHINA, LAHAINA, MAUI, FOR RUBBLE ROCK REVETMENT PURPOSES," was adopted.

Stand. Com. Rep. No. 3541 (H.C.R. No. 162):

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 162, entitled: "HOUSE CONCURRENT RESOLUTION AUTHORIZING THE GRANT OF A FIFTY-FIVE YEAR TERM FOR A NON-EXCLUSIVE EASEMENT TO KOOLAU PROPERTIES, LLC, FOR SEAWALL PURPOSES AT SPRECKLESVILLE BEACH LOTS, WAILUKU, MAUI, AS APPROVED BY THE BOARD OF LAND AND NATURAL RESOURCES," was adopted.

ADOPTION OF RESOLUTIONS

H.C.R. No. 23:

On motion by Senator Espero, seconded by Senator Slom and carried, H.C.R. No. 23, entitled: "HOUSE CONCURRENT RESOLUTION AUTHORIZING THE ISSUANCE OF A TERM, NON-EXCLUSIVE EASEMENT COVERING A PORTION OF STATE SUBMERGED LANDS AT LAHAINA, MAUI, FOR MAINTENANCE AND REPAIR OF EXISTING DECK AND IMPROVEMENTS," was adopted.

H.C.R. No. 24:

On motion by Senator Espero, seconded by Senator Slom and carried, H.C.R. No. 24, entitled: "HOUSE CONCURRENT RESOLUTION APPROVING THE SALE OF THE LEASED FEE INTEREST IN 593 KULIOUOU ROAD, HONOLULU, HAWAII," was adopted.

H.C.R. No. 25:

On motion by Senator Espero, seconded by Senator Slom and carried, H.C.R. No. 25, entitled: "HOUSE CONCURRENT RESOLUTION APPROVING THE SALE OF THE LEASED FEE INTEREST IN 619 KULIOUOU ROAD, HONOLULU, HAWAII," was adopted.

H.C.R. No. 26:

On motion by Senator Espero, seconded by Senator Slom and carried, H.C.R. No. 26, entitled: "HOUSE CONCURRENT RESOLUTION APPROVING THE SALE OF THE LEASED FEE INTEREST IN 644 HOKIOKIO PLACE, HONOLULU, HAWAII," was adopted.

H.C.R. No. 27:

On motion by Senator Espero, seconded by Senator Slom and carried, H.C.R. No. 27, entitled: "HOUSE CONCURRENT RESOLUTION APPROVING THE SALE OF THE LEASED FEE INTEREST IN 2314 10TH AVENUE, HONOLULU, HAWAII," was adopted.

H.C.R. No. 28:

On motion by Senator Espero, seconded by Senator Slom and carried, H.C.R. No. 28, entitled: "HOUSE CONCURRENT RESOLUTION APPROVING THE SALE OF THE LEASED FEE INTEREST IN 41-557 KAMANAAINA PLACE, WAIMANALO, HAWAII," was adopted.

H.C.R. No. 29:

On motion by Senator Espero, seconded by Senator Slom and carried, H.C.R. No. 29, entitled: "HOUSE CONCURRENT RESOLUTION APPROVING THE SALE OF THE LEASED FEE INTEREST IN 2949 ALA ILIMA STREET, NO. 303, HONOLULU, HAWAII," was adopted.

H.C.R. No. 30:

On motion by Senator Espero, seconded by Senator Slom and carried, H.C.R. No. 30, entitled: "HOUSE CONCURRENT RESOLUTION APPROVING THE SALE OF THE LEASED FEE INTEREST IN 95-031 KUAHELANI AVENUE, NO. 242, MILILANI, HAWAII," was adopted.

H.C.R. No. 31:

On motion by Senator Espero, seconded by Senator Slom and carried, H.C.R. No. 31, entitled: "HOUSE CONCURRENT RESOLUTION APPROVING THE SALE OF THE LEASED FEE INTEREST IN 95-017 KUAHELANI AVENUE, NO. 321, MILILANI, HAWAII," was adopted.

FINAL READING

S.B. No. 2412, S.D. 2, H.D. 2:

On motion by Senator Baker, seconded by Senator Ige and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2412, S.D. 2, and S.B. No. 2412, S.D. 2, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO CONTRACTS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Kahele, Shimabukuro).

Senator Dela Cruz rose to speak on a point of personal privilege as follows:

"I just want to wish my office manager a happy birthday. I just want to say a quick story: Ten years ago, when you and I first got elected, I got a call from our Vice President who said, 'You know, you've got to hire Dot; she's going to make your life easy,' and that was the best advice—although there was lots of advice that I took—but that was *the best* advice that I took. And just a short history: Dot was there the entire tenure of Toraki Matsumoto; she worked at the time for Councilmember Kim, Councilmember Kahanu, Councilmember Gill, and Councilmember Yoshimura, and then myself. So, I'm really lucky; she deserves an award. I mean, sometimes I'm not the easiest person to work with, so she deserves an award for

hanging in with me the last ten years. Thank you, Mr. President."

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 are named in accordance with the action sheets to be distributed to your offices later today.

"The deadline to file committee reports on amended House concurrent resolutions in order to meet Monday's Second Crossover deadline is 5:00 p.m. today."

RE-REFERRAL OF A HOUSE CONCURRENT RESOLUTION

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

H.C.R. No.: Re-referred to:

H.C.R. No. 177, H.D. 2 Jointly to the Committee on Health and the Committee on Commerce and Consumer Protection

APPOINTMENT AND DISCHARGE OF CONFEREES

S.B. No. 1065, S.D. 1 (H.D. 1):

The President appointed Senator Kim as co-chair and Senator Kouchi as an additional manager on the part of the Senate at the conference to be held for the consideration of amendments proposed by the House to S.B. No. 1065, S.D. 1.

S.B. No. 2927, S.D. 2 (H.D. 1):

The President discharged Senator Ihara as manager and appointed Senator Kouchi as manager on the part of the Senate at the conference to be held for the consideration of amendments proposed by the House to S.B. No. 2927, S.D. 2.

S.B. No. 2967, S.D. 2 (H.D. 1):

The President appointed Senator Kim as co-chair and Senator Kouchi as an additional manager on the part of the Senate at the conference to be held for the consideration of amendments proposed by the House to S.B. No. 2967, S.D. 2.

H.B. No. 2338, H.D. 2 (S.D. 1):

The President appointed Senator Kim as co-chair on the part of the Senate at the conference to be held for the consideration of amendments proposed by the Senate to H.B. No. 2338, H.D. 2.

ADJOURNMENT

At 12:00 p.m., on motion by Senator Espero, seconded by Senator Slom and carried, the Senate adjourned until 11:30 a.m., Monday, April 23, 2012.