

FIFTY-FIFTH DAY

Tuesday, April 22, 2014

The Senate of the Twenty-Seventh Legislature of the State of Hawai'i, Regular Session of 2014, convened at 11:37 a.m. with the President in the Chair.

The Roll was called showing all Senators present.

The President announced that she had read and approved the Journal of the Fifty-Fourth Day.

At this time, Senator Hee introduced friends from the North Shore community who were participating in budget discussions at the State Capitol including Lea Hong, Doug Cole, former State Representative Gil Riviere, and Turtle Bay Resort General Manager Danna Holck.

Senator Gabbard welcomed students from the following schools who were participating in the Clean Energy Rally sponsored by Blue Planet Foundation to celebrate Earth Day: Governor Wallace Rider Farrington High School, Waialua High and Intermediate School, Nanakuli High and Intermediate School, Leilehua High School, Hongwanji Mission School, 'Iolani School, and Le Jardin Academy. Senator Gabbard also recognized teachers Jennifer Hirotsu from Farrington High School, Terra Wright from Nanakuli High and Intermediate School, Karen Weisberger from Hongwanji Mission School, and Josh Prigge from Hawai'i Pacific University, as well as Jeff Mikulina and Henk Rogers from Blue Planet Foundation.

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 1121 to 1125) were read by the Clerk and were placed on file:

Gov. Msg. No. 1121, informing the Senate that on April 17, 2014, the Governor signed into law Senate Bill No. 2803, S.D. 1 as Act 21, entitled: "RELATING TO THRILL CRAFT OPERATION."

Gov. Msg. No. 1122, informing the Senate that on April 17, 2014, the Governor signed into law Senate Bill No. 2229, S.D. 2 as Act 22, entitled: "RELATING TO THE UNIFORM POWER OF ATTORNEY ACT."

Gov. Msg. No. 1123, informing the Senate that on April 17, 2014, the Governor signed into law Senate Bill No. 2138, S.D. 1 as Act 23, entitled: "RELATING TO ELECTRIC VEHICLES."

Gov. Msg. No. 1124, informing the Senate that on April 17, 2014, the Governor signed into law House Bill No. 1846 as Act 24, entitled: "RELATING TO DISTRICT COURT JURISDICTION."

Gov. Msg. No. 1125, informing the Senate that on April 17, 2014, the Governor signed into law House Bill No. 2579 as Act 25, entitled: "RELATING TO LABOR."

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 697 to 711) were read by the Clerk and were disposed of as follows:

Hse. Com. No. 697, returning S.C.R. No. 47, S.D. 1, as amended in H.D. 1, which was adopted by the House of Representatives on April 21, 2014, was placed on file.

By unanimous consent, action on S.C.R. No. 47, S.D. 1 (H.D. 1), entitled: "SENATE CONCURRENT RESOLUTION RECOGNIZING JANUARY 17 OF EVERY YEAR AS HO'OKU'IKAHI DAY, OR RECONCILIATION DAY, IN

HONOR AND REMEMBRANCE OF THE JUSTICE, RECONCILIATION, AND NONVIOLENCE OF QUEEN LILI'UOKALANI," was deferred until Wednesday, April 23, 2014.

Hse. Com. No. 698, returning S.C.R. No. 51, S.D. 1, as amended in H.D. 1, which was adopted by the House of Representatives on April 21, 2014, was placed on file.

By unanimous consent, action on S.C.R. No. 51, S.D. 1 (H.D. 1), entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE ADMINISTRATION OF THE YOUTH RISK BEHAVIOR SURVEY TO STUDENTS IN GRADES SIX TO TWELVE IN SELECT SCHOOLS," was deferred until Wednesday, April 23, 2014.

Hse. Com. No. 699, returning S.C.R. No. 57, as amended in H.D. 1, which was adopted by the House of Representatives on April 21, 2014, was placed on file.

By unanimous consent, action on S.C.R. No. 57 (H.D. 1), entitled: "SENATE CONCURRENT RESOLUTION SUPPORTING A BID TO THE COUNCIL OF PACIFIC ARTS AND CULTURE FOR HAWAII TO HOST THE 2020 FESTIVAL OF PACIFIC ARTS," was deferred until Wednesday, April 23, 2014.

Hse. Com. No. 700, returning S.C.R. No. 73, as amended in H.D. 1, which was adopted by the House of Representatives on April 21, 2014, was placed on file.

By unanimous consent, action on S.C.R. No. 73 (H.D. 1), entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE DIRECTOR OF HEALTH TO CONVENE A TASK FORCE TO STUDY THE EFFECTS OF THE JANUARY 2014 FUEL TANK LEAK AT THE RED HILL UNDERGROUND FUEL STORAGE FACILITY," was deferred until Wednesday, April 23, 2014.

Hse. Com. No. 701, returning S.C.R. No. 74, S.D. 1, as amended in H.D. 1, which was adopted by the House of Representatives on April 21, 2014, was placed on file.

By unanimous consent, action on S.C.R. No. 74, S.D. 1 (H.D. 1), entitled: "SENATE CONCURRENT RESOLUTION REQUESTING AN EXAMINATION AND AUDIT OF THE ADVANCE DISPOSAL FEE PROGRAM," was deferred until Wednesday, April 23, 2014.

Hse. Com. No. 702, returning S.C.R. No. 97, S.D. 1, as amended in H.D. 1, which was adopted by the House of Representatives on April 21, 2014, was placed on file.

By unanimous consent, action on S.C.R. No. 97, S.D. 1 (H.D. 1), entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE CONVENING OF A COTTAGE FOOD BUSINESS WORKING GROUP COMPRISING REPRESENTATIVES FROM THE DEPARTMENT OF HEALTH AND THE COTTAGE FOOD INDUSTRY," was deferred until Wednesday, April 23, 2014.

Hse. Com. No. 703, returning S.C.R. No. 41, which was adopted by the House of Representatives on April 21, 2014, was placed on file.

Hse. Com. No. 704, returning S.C.R. No. 62, which was adopted by the House of Representatives on April 21, 2014, was placed on file.

Hse. Com. No. 705, returning S.C.R. No. 63, which was adopted by the House of Representatives on April 21, 2014, was placed on file.

Hse. Com. No. 706, returning S.C.R. No. 70, which was adopted by the House of Representatives on April 21, 2014, was placed on file.

Hse. Com. No. 707, returning S.C.R. No. 71, which was adopted by the House of Representatives on April 21, 2014, was placed on file.

Hse. Com. No. 708, returning S.C.R. No. 82, which was adopted by the House of Representatives on April 21, 2014, was placed on file.

Hse. Com. No. 709, returning S.C.R. No. 84, which was adopted by the House of Representatives on April 21, 2014, was placed on file.

Hse. Com. No. 710, informing the Senate that on April 21, 2014, 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. 2481, H.D. 1 (S.D. 2):

Representatives Tsuji, Choy, Takayama, co-chairs; Ward, was placed on file.

Hse. Com. No. 711, informing the Senate that on April 21, 2014, 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. 1038, S.D. 2 (H.D. 2):

Representatives Nakashima, Rhoads, Yamashita, co-chairs; Ing, Johanson.

S.B. No. 2397, S.D. 2 (H.D. 1):

Representatives Tsuji, Wooley, Takayama, co-chairs; Brower, Ward.

S.B. No. 2436, S.D. 2 (H.D. 1):

Representatives Yamane, Evans, Takayama, co-chairs; Kawakami, McDermott.

S.B. No. 3023, S.D. 2 (H.D. 1):

Representatives Wooley, Tsuji, Onishi, co-chairs; Awana, Matsumoto.

S.B. No. 3065, S.D. 1 (H.D. 1):

Representatives Evans, Luke, co-chairs; Matsumoto.

S.B. No. 3066, S.D. 2 (H.D. 1):

Representatives Tsuji, Evans, Nishimoto, co-chairs; Choy, Kawakami, Ward,

was placed on file.

CONFERENCE COMMITTEE REPORT

Senator English, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House to S.B. No. 2901, S.D. 1, presented a report (Conf. Com. Rep. No. 1-14) recommending that S.B. No. 2901, S.D. 1, H.D. 1, as amended in C.D. 1, pass Final Reading.

In accordance with Article III, Section 15 of the Constitution of the State of Hawai'i, action on Conf. Com. Rep. No. 1-14 and S.B. No. 2901, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR CARRIER SAFETY," was deferred for a period of 48 hours.

STANDING COMMITTEE REPORTS

Senator Ige, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 3491) recommending that H.C.R. No. 176 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 3491 and H.C.R. No. 176, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE STATE PROCUREMENT OFFICE TO CONDUCT A STUDY ON THE FEASIBILITY, NECESSARY PROCESSES, AND COSTS RELATIVE TO REQUIRING THE CONSIDERATION OF PAST PERFORMANCE AS A FACTOR IN AWARDED PUBLIC CONTRACTS, INCLUDING LOW BID CONTRACTS," was deferred until Wednesday, April 23, 2014.

Senator Ige, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 3492) recommending that H.C.R. No. 121 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 3492 and H.C.R. No. 121, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING A FEASIBILITY STUDY ON THE ATTACHMENT OF THE OFFICE OF INFORMATION PRACTICES ON A PERMANENT BASIS TO THE DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES," was deferred until Wednesday, April 23, 2014.

Senator Ige, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 3493) recommending that H.C.R. No. 100 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 3493 and H.C.R. No. 100, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE AUDITOR TO ASSESS THE SOCIAL AND FINANCIAL EFFECTS OF REQUIRING HEALTH INSURERS TO PROVIDE COVERAGE FOR MEDICALLY NECESSARY TREATMENT OF OROFACIAL ANOMALIES," was deferred until Wednesday, April 23, 2014.

Senator Ige, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 3494) recommending that H.C.R. No. 66 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 3494 and H.C.R. No. 66, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE STATE AUDITOR TO CONDUCT A SUNRISE REVIEW OF THE REGULATION OF VETERINARY TECHNICIANS AND THE PRACTICE OF VETERINARY TECHNOLOGY," was deferred until Wednesday, April 23, 2014.

Senator Green, for the Committee on Health, presented a report (Stand. Com. Rep. No. 3495) recommending that H.C.R. No. 74 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 3495 and H.C.R. No. 74, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING A SUNRISE REVIEW OF THE ESTABLISHMENT OF A SYSTEM OF REGISTERED DISPENSARIES WITHIN THE DEPARTMENT OF HEALTH TO DISPENSE MEDICAL MARIJUANA," was deferred until Wednesday, April 23, 2014.

Senator Tokuda, for the Committee on Education, presented a report (Stand. Com. Rep. No. 3496) recommending that the Senate advise and consent to the nominations to the Board of Education of the following:

DONALD HORNER, in accordance with Gov. Msg. No. 706; and

JAMES WILLIAMS, in accordance with Gov. Msg. No. 707.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 3496 and Gov. Msg. Nos. 706 and 707 was deferred until Wednesday, April 23, 2014.

Senator Solomon, for the Committee on Water and Land, presented a report (Stand. Com. Rep. No. 3497) recommending that the Senate advise and consent to the nominations to the Land Use Commission of the following:

AARON MAHI, in accordance with Gov. Msg. No. 504; and

AARON MAHI, in accordance with Gov. Msg. No. 505.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 3497 and Gov. Msg. Nos. 504 and 505 was deferred until Wednesday, April 23, 2014.

Senator Solomon, for the Committee on Water and Land, presented a report (Stand. Com. Rep. No. 3498) recommending that the Senate advise and consent to the nomination of EDMUND ACZON to the Land Use Commission, in accordance with Gov. Msg. No. 702.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 3498 and Gov. Msg. No. 702 was deferred until Wednesday, April 23, 2014.

Senator Solomon, for the Committee on Water and Land, presented a report (Stand. Com. Rep. No. 3499) recommending that the Senate advise and consent to the nominations to the Kokee State Park Advisory Council of the following:

DAVID ALEXANDER, in accordance with Gov. Msg. No. 647; and

DAVID ALEXANDER, in accordance with Gov. Msg. No. 648.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 3499 and Gov. Msg. Nos. 647 and 648 was deferred until Wednesday, April 23, 2014.

Senator Solomon, for the Committee on Water and Land, presented a report (Stand. Com. Rep. No. 3500) recommending that the Senate advise and consent to the nomination of THOMAS OI to the Board of Land and Natural Resources, in accordance with Gov. Msg. No. 705.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 3500 and Gov. Msg. No. 705 was deferred until Wednesday, April 23, 2014.

Senator Solomon, for the Committee on Water and Land, presented a report (Stand. Com. Rep. No. 3501) recommending that the Senate advise and consent to the nomination of MICHAEL BUCK to the Commission on Water Resource Management, in accordance with Gov. Msg. No. 703.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 3501 and Gov. Msg. No. 703 was deferred until Wednesday, April 23, 2014.

Senator Solomon, for the Committee on Water and Land, presented a report (Stand. Com. Rep. No. 3502) recommending that the Senate advise and consent to the nomination of MAURICE RADKE to the Kaneohe Bay Regional Council, in accordance with Gov. Msg. No. 554.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 3502 and Gov. Msg. No. 554 was deferred until Wednesday, April 23, 2014.

Senator Wakai, for the Committee on Technology and the Arts, presented a report (Stand. Com. Rep. No. 3503) recommending that H.C.R. No. 200 be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 200, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES AND STATE FOUNDATION ON CULTURE AND THE ARTS TO PLACE A PEACE POLE SCULPTURE NEAR THE KATSU GOTO MEMORIAL AND RECOGNIZING THE EFFORTS OF THE COMMUNITY OF HONOKA'A, THE HONOKA'A PEACE COMMITTEE, AND THE IMPORTANCE OF COMMEMORATING PEACE DAY," was referred to the Committee on Ways and Means.

Senator Ige, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 3504) recommending that H.C.R. No. 140 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 3504 and H.C.R. No. 140, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DIRECTOR OF HUMAN SERVICES TO REBASE THE BASIC PROSPECTIVE PAYMENT SYSTEM RATES FOR INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES THAT SERVE MEDICAID RECIPIENTS TO BE EFFECTIVE JULY 1, 2015, AND THE DIRECTOR OF HEALTH TO INCLUDE SUFFICIENT FUNDING TO COVER ANY INCREASE IN BASIC PAYMENT SYSTEM RATES RESULTING FROM REBASING IN ITS 2015-2017 BIENNIAL BUDGET," was deferred until Wednesday, April 23, 2014.

ORDER OF THE DAY

ADVISE AND CONSENT

Stand. Com. Rep. No. 3478 (Gov. Msg. No. 646):

Senator Shimabukuro moved that Stand. Com. Rep. No. 3478 be received and placed on file, seconded by Senator Hee and carried.

Senator Shimabukuro then moved that the Senate advise and consent to the nomination of KAHELEONALANI DUKELOW to the Island Burial Council, Islands of Maui and Lanai, term to expire June 30, 2015, seconded by Senator Hee.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3479 (Gov. Msg. No. 700):

Senator Shimabukuro moved that Stand. Com. Rep. No. 3479 be received and placed on file, seconded by Senator Hee and carried.

Senator Shimabukuro then moved that the Senate advise and consent to the nomination of DAVID KAAPU to the Hawaiian Homes Commission, term to expire June 30, 2017, seconded by Senator Hee.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3480 (Gov. Msg. Nos. 676, 677, 678, 679, 680, 681, and 682):

Senator Taniguchi moved that Stand. Com. Rep. No. 3480 be received and placed on file, seconded by Senator Kahele and carried.

Senator Taniguchi then moved that the Senate advise and consent to the nominations to the Hawaii Commission for National and Community Service of the following:

JOHN ANDERSON, term to expire June 30, 2017 (Gov. Msg. No. 676);

JANICE BOND, term to expire June 30, 2017 (Gov. Msg. No. 677);

DENNIS DUNN, term to expire June 30, 2017 (Gov. Msg. No. 678);

LISA DUNN, term to expire June 30, 2017 (Gov. Msg. No. 679);

PATRICIA MASTERS, term to expire June 30, 2017 (Gov. Msg. No. 680);

DARIN SHIGETA, term to expire June 30, 2017 (Gov. Msg. No. 681); and

CHARLOTTE TOWNSEND, term to expire June 30, 2017 (Gov. Msg. No. 682),

seconded by Senator Kahele.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3481 (Gov. Msg. Nos. 683, 684, 685, 686, and 687):

Senator Taniguchi moved that Stand. Com. Rep. No. 3481 be received and placed on file, seconded by Senator Kahele and carried.

Senator Taniguchi then moved that the Senate advise and consent to the nominations to the Hawaii Medical Education Council of the following:

VICKI MCMANUS, term to expire June 30, 2017 (Gov. Msg. No. 683);

KENNETH ROBBINS, term to expire June 30, 2017 (Gov. Msg. No. 684);

SHARON VITOUSEK, term to expire June 30, 2017 (Gov. Msg. No. 685);

ALLEN HIXON, term to expire June 30, 2017 (Gov. Msg. No. 686); and

WILLIAM DUBBS, term to expire June 30, 2015 (Gov. Msg. No. 687),

seconded by Senator Kahele.

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

Ayes, 25. Noes, none.

FINAL ADOPTION

S.C.R. No. 83, H.D. 1:

On motion by Senator Espero, seconded by Senator Slom and carried, the Senate agreed to the amendments proposed by the House to S.C.R. No. 83, and S.C.R. No. 83, H.D. 1, entitled: "SENATE CONCURRENT RESOLUTION COMMENDING AND SUPPORTING THE PACIFIC INTERNATIONAL SPACE CENTER FOR EXPLORATION SYSTEMS' COLLABORATIVE WORK WITH THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AND PRIVATE INDUSTRIES IN THE AREAS OF BASALTIC CONCRETE AND ADDITIVE MANUFACTURING AND REQUESTING COLLABORATION TO EXPLORE OPPORTUNITIES FOR APPLICATIONS OF BASALTIC CONCRETE AND ADDITIVE MANUFACTURING," was Finally Adopted.

RECONSIDERATION OF ACTIONS TAKEN

S.B. No. 2094, S.D. 1 (H.D. 1):

Senator Hee moved that the Senate reconsider its action taken on April 1, 2014, in disagreeing to the amendments proposed by the House to S.B. No. 2094, S.D. 1, seconded by Senator Espero and carried.

In accordance with the Conference Committee Procedures agreed upon by the Senate and the House of Representatives, the managers on the part of the Senate recommended that the Senate agree to the amendments proposed by the House to S.B. No. 2094, S.D. 1, on the following showing of Ayes and Noes:

Ayes, 3 (Hee, Wakai, Slom). Noes, none. Excused, none.

Senator Hee then moved that the Senate agree to the amendments proposed by the House to S.B. No. 2094, S.D. 1, seconded by Senator Espero.

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2094, S.D. 1, and S.B. No. 2094, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO COMPUTER DAMAGE," was placed on the calendar for Final Reading on Wednesday, April 23, 2014.

At this time, Senator Galuteria rose to welcome members from the Ko'olau Clubhouse, a voluntary, member-driven psychological rehabilitation program.

Senator Hee rose to speak on a point of inquiry as follows:

"Thank you. I'd like to inquire the following: On the motion to agree to S.B. No. 2094, may I inquire of you if I may be permitted to put the reasons? Thank you. Thank you for that wonderful agreement. Madam President, my point of inquiry was to insert them into the Journal, if you would be so kind as to permit that." (The Chair so ordered.)

"Thank you. You're just wonderful this morning. I want everybody to know up there how wonderful you are. Thank you, Madam President."

The Chair having so ordered, Senator Hee's remarks read as follows:

"The purpose of this measure is to redefine the offense of computer damage in the first degree as intentionally causing or attempting to cause damage to a computer, computer system, or computer network that manages or controls critical infrastructure and increases it to a class A felony; redefine the offense of computer damage in the second degree; and creates a new offense of computer damage in the third degree. Your Committee on Judiciary and Labor passed this unamended.

"The Senate is agreeing to the House amendments that clarified the definition of 'critical infrastructure' specified that the offense of Computer Damage in the First Degree applies to damage to state and federal critical infrastructure."

Senator Thielen rose to inform the members that the Senate collectively donated over 571 pounds of canned and dried food to the Hawaii Foodbank, with Senator Chun Oakland's office gathering over 170 pounds of food to win a lunch served by Senator Thielen and her staff. Senator Thielen also thanked the Senate Sergeant-at-Arms staff for gathering and delivering the donated food to the Foodbank.

ADJOURNMENT

At 11:47 a.m., on motion by Senator Espero, seconded by Senator Slom and carried, the Senate adjourned until 11:30 a.m., Wednesday, April 23, 2014.