

## FIFTY-FIFTH DAY

## Tuesday, April 28, 2015

The Senate of the Twenty-Eighth Legislature of the State of Hawai'i, Regular Session of 2015, convened at 11:41 a.m. with the President in the Chair.

The Roll was called showing all Senators present with the exception of Senators Galuteria and Ruderman who were excused.

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

Senator Dela Cruz welcomed Dale and Diane Trahan and Jared and Charmaine Lawless, who were visiting from Louisiana.

## MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 232 to 234) were read by the Clerk and were placed on file:

Gov. Msg. No. 232, letter dated April 23, 2015, transmitting a proposed conference draft (C.D. 1) amending S.B. No. 1080, S.D. 1, H.D. 1, to fund the settlements concerning Collective Bargaining Unit 5.

Gov. Msg. No. 233, letter dated April 24, 2015, transmitting a proposed conference draft (C.D. 1) amending S.B. No. 1081, S.D. 1, H.D. 1, to fund the settlements concerning Collective Bargaining Unit 10 and United Public Workers Bargaining Unit 1.

Gov. Msg. No. 234, letter dated April 24, 2015, transmitting a proposed conference draft (C.D. 1) amending S.B. No. 1082, S.D. 1, H.D. 1, to fund the settlement concerning Collective Bargaining Unit 11.

## HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 637 to 643) were read by the Clerk and were disposed of as follows:

Hse. Com. No. 637, informing the Senate that on April 27, 2015, the House reconsidered its action taken on April 20, 2015, in giving intent to agree to the amendments proposed by the Senate to H.B. No. 1075, H.D. 2 (S.D. 2), and appointed conferees on the part of the House for the consideration of amendments proposed by the Senate to the following bill:

H.B. No. 1075, H.D. 2 (S.D. 2):

Representatives Belatti, Nakashima, Luke, co-chairs; Yamashita, Thielen,

was placed on file.

Hse. Com. No. 638, informing the Senate that on April 27, 2015, the House reconsidered its action taken on April 8, 2015, in disagreeing to the amendments proposed by the Senate to H.B. No. 268, H.D. 2 (S.D. 1), was placed on file.

Hse. Com. No. 639, informing the Senate that on April 27, 2015, the House reconsidered its action taken on April 9, 2015, in disagreeing to the amendments proposed by the Senate to H.B. No. 1007, H.D. 1 (S.D. 2), was placed on file.

Hse. Com. No. 640, informing the Senate that on April 27, 2015, the Speaker discharged the conferees to H.B. No. 393, H.D. 2 (S.D. 2), was placed on file.

Hse. Com. No. 641, informing the Senate that on April 27, 2015, 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. 717, S.D. 2 (H.D. 1):

Representatives Lee, Aquino, McKelvey, co-chairs; Nakashima, Thielen.

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

Representatives McKelvey, Woodson, Rhoads, co-chairs; Yamane, McDermott.

Hse. Com. No. 642, returning S.C.R. No. 57, S.D. 1, as amended in H.D. 1, which was adopted by the House of Representatives on April 27, 2015, was placed on file.

By unanimous consent, action on S.C.R. No. 57, S.D. 1 (H.D. 1), entitled: "SENATE CONCURRENT RESOLUTION EXPANDING THE TASK FORCE STUDY OF THE EFFECTS OF THE JANUARY 2014 FUEL TANK LEAK AT THE RED HILL UNDERGROUND FUEL STORAGE FACILITY, ESTABLISHED UNDER SENATE CONCURRENT RESOLUTION NO. 73, H.D. 1, REGULAR SESSION OF 2014, TO INCLUDE AN ADDITIONAL TWENTY-SIX UNDERGROUND FUEL STORAGE TANKS IN THE STATE OWNED BY THE UNITED STATES MILITARY," was deferred until Wednesday, April 29, 2015.

Hse. Com. No. 643, returning S.C.R. No. 107, S.D. 1, as amended in H.D. 1, which was adopted by the House of Representatives on April 27, 2015, was placed on file.

By unanimous consent, action on S.C.R. No. 107, S.D. 1 (H.D. 1), entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE CONVENING OF A LEGISLATIVE FAMILY CAREGIVERS WORKING GROUP TO EXAMINE AND ASSESS ISSUES RELATING TO THE ROLE OF CAREGIVERS OF PATIENTS DISCHARGED FROM HOSPITALS," was deferred until Wednesday, April 29, 2015.

## STANDING COMMITTEE REPORTS

Senator Thielen, for the majority of the Committee on Water and Land, presented a report (Stand. Com. Rep. No. 1704) recommending that the Senate advise and consent to the nomination of WILLIAM BALFOUR, JR. to the Commission on Water Resource Management, in accordance with Gov. Msg. No. 820.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1704 and Gov. Msg. No. 820 was deferred until Wednesday, April 29, 2015.

Senator Taniguchi, for the Committee on Higher Education and the Arts, presented a report (Stand. Com. Rep. No. 1705) recommending that the Senate advise and consent to the nominations to the Center for Nursing Advisory Board of the following:

ELIZABETH HOBAN, in accordance with Gov. Msg. No. 634; and

SUSAN LEE, in accordance with Gov. Msg. No. 635.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1705 and Gov. Msg. Nos. 634 and 635 was deferred until Wednesday, April 29, 2015.

Senator Taniguchi, for the Committee on Higher Education and the Arts, presented a report (Stand. Com. Rep. No. 1706) recommending that the Senate advise and consent to the nominations to the State Foundation on Culture and the Arts of the following:

DEAN SAKAMOTO, in accordance with Gov. Msg. No. 762;

JANE CLEMENT, in accordance with Gov. Msg. No. 763;

KAREN POLIVKA, in accordance with Gov. Msg. No. 764;

NOELLE KAHANU, in accordance with Gov. Msg. No. 765; and

PATRICIA HAMAMOTO, in accordance with Gov. Msg. No. 766.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1706 and Gov. Msg. Nos. 762, 763, 764, 765 and 766 was deferred until Wednesday, April 29, 2015.

Senator Taniguchi, for the Committee on Higher Education and the Arts, presented a report (Stand. Com. Rep. No. 1707) recommending that the Senate advise and consent to the nominations to the Hawai'i Commission for National and Community Service of the following:

KAI DUPONTE, in accordance with Gov. Msg. No. 809; and

RONALDO MATA, in accordance with Gov. Msg. No. 810.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1707 and Gov. Msg. Nos. 809 and 810 was deferred until Wednesday, April 29, 2015.

Senator Taniguchi, for the Committee on Higher Education and the Arts, presented a report (Stand. Com. Rep. No. 1708) recommending that the Senate advise and consent to the nominations to the Hawai'i Historic Places Review Board of the following:

MATT MCDERMOTT, in accordance with Gov. Msg. No. 811; and

ZACHARY I. BANTOLINA, in accordance with Gov. Msg. No. 812.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1708 and Gov. Msg. Nos. 811 and 812 was deferred until Wednesday, April 29, 2015.

Senator Chun Oakland, for the Committee on Higher Human Services and Housing, presented a report (Stand. Com. Rep. No. 1709) recommending that the Senate advise and consent to the nominations to the State Rehabilitation Council of the following:

GEORGE MASSENGALE, in accordance with Gov. Msg. No. 876;

GWEN KELIHOOMALU, in accordance with Gov. Msg. No. 877;

MARK TRAVALINO, in accordance with Gov. Msg. No. 878;

MICHELE KU, in accordance with Gov. Msg. No. 879;

RENE BERTHIAUME, in accordance with Gov. Msg. No. 880;

RODERICK MACDONALD, in accordance with Gov. Msg. No. 881;

LANELLE YAMANE, in accordance with Gov. Msg. No. 882; and

KRISTINE TAKEKAWA, in accordance with Gov. Msg. No. 883.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1709 and Gov. Msg. Nos. 876, 877, 878, 879, 880,

881, 882, and 883 was deferred until Wednesday, April 29, 2015.

## ORDER OF THE DAY

### ADVISE AND CONSENT

Stand. Com. Rep. No. 1701 (Gov. Msg. No. 718):

Senator Riviere moved that Stand. Com. Rep. No. 1701 be received and placed on file, seconded by Senator Chun Oakland and carried.

Senator Riviere then moved that the Senate advise and consent to the nomination of SIMON RUSSELL to the Board of Agriculture, term to expire June 30, 2016, seconded by Senator Chun Oakland.

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

Ayes, 23. Noes, none. Excused, 2 (Galuteria, Ruderman).

Stand. Com. Rep. No. 1702 (Gov. Msg. Nos. 719, 720, 721, 722 and 723):

Senator Riviere moved that Stand. Com. Rep. No. 1702 be received and placed on file, seconded by Senator Chun Oakland and carried.

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

DENISE ALBANO, term to expire June 30, 2016 (Gov. Msg. No. 719);

LLOYD HARAGUCHI, term to expire June 30, 2015 (Gov. Msg. No. 720);

LLOYD HARAGUCHI, term to expire June 30, 2019 (Gov. Msg. No. 721);

MARGARITA HOPKINS, term to expire June 30, 2018 (Gov. Msg. No. 722); and

YUKIO KITAGAWA, term to expire June 30, 2018 (Gov. Msg. No. 723),

seconded by Senator Chun Oakland.

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

Ayes, 23. Noes, none. Excused, 2 (Galuteria, Ruderman).

At this time, Senator Riviere congratulated the newly confirmed board members, then introduced Simon Russell of the Board of Agriculture, who was accompanied in the gallery by Vincent Mina, president of the Hawaii Farmers Union United, and Harley Danielson of the National Farmers Union.

Stand. Com. Rep. No. 1703 (Gov. Msg. No. 844):

Senator Keith-Agaran moved that Stand. Com. Rep. No. 1703 be received and placed on file, seconded by Senator Shimabukuro and carried.

Senator Keith-Agaran then moved that the Senate advise and consent to the nomination of LINDA CHU TAKAYAMA as Director of the Department of Labor and Industrial Relations, term to expire December 3, 2018, seconded by Senator Shimabukuro.

Senator Keith-Agaran rose to speak in support of the nominee as follows:

"Linda Chu Takayama brings experience and training from her private law practice and her years of public service at the federal and state level to this position. During her prior tenure

as the Hawai'i insurance commissioner, Ms. Chu Takayama developed programs to stabilize and expand the property insurance market during the highly volatile period following Hurricane Iniki, including establishing the Hawaii Hurricane Relief Fund. She was a member of the governor's subcabinet task force on health care reform and chaired the governor's task force on workers' compensation reform. She also brings her previous experience from Washington, D.C., where she served as chief of staff to United States Senate Sergeant-at-Arms. From her prior service, we can expect that she will be able to balance the needs of workers with the needs of employees and industry.

"The nominee has been described as a person strongly guided by a strong foundation of values, including the right of all of us to an honest day's work, to be fairly compensated for that work, and to be cared for in terms of injury or illness. She's committed to supporting the training of a vibrant workforce to meet the challenges of an evolving community. She's been described as fair, intelligent, and tough – not bad descriptions for the next director of Labor.

"In short, I'm confident that Ms. Chu Takayama's values are consistent with the goals of the Labor department and its attached agencies, and I am confident she'll provide strong leadership and appropriate administrative support to successfully meet their objectives. I urge my colleagues to advise and consent to Linda Chu Takayama as the next Hawai'i director of Labor."

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

"Ms. Chu Takayama is an additional outstanding female member of the cabinet, along with other women that our governor has sought fit to appoint and bring into state service. They are strong, talented, able, capable, and actually are the epitome of, I think, the kind of role models we want our daughters, sisters, mothers, aunts to have. So it's my pleasure to stand in strong support of this nominee. We know that she'll do very well, and I invite my colleagues to join me in voting up on her nomination."

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

Ayes, 23. Noes, none. Excused, 2 (Galuteria, Ruderman).

Senator Keith-Agaran introduced newly confirmed Director Linda Chu Takayama, who was present in the gallery with her daughter, Teal Takayama; her brother-in-law Roger Takayama; and her husband, State Representative Gregg Takayama.

At 11:49 a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:54 a.m.

#### **ADOPTION OF RESOLUTIONS**

#### **MATTERS DEFERRED FROM MONDAY, APRIL 27, 2015**

Stand. Com. Rep. No. 1697 (H.C.R. No. 212):

On motion by Senator Green, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 212, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING FEDERAL AND STATE AGENCIES TO CONSULT WITH HAWAII SMALL SCALE FARMERS, HAWAII SMALL SCALE PRODUCERS, AND AFFECTED PARTIES ON THE OFFSETTING OF COSTS ASSOCIATED WITH THE IMPLEMENTATION OF THE FOOD SAFETY MODERNIZATION ACT," was adopted.

Stand. Com. Rep. No. 1698 (H.C.R. No. 182):

On motion by Senator Green, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 182, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF TRANSPORTATION TO CONDUCT A TRAFFIC STUDY AND MAKE RECOMMENDATIONS TO ALLEVIATE TRAFFIC CONGESTION ON KAHEKILI HIGHWAY FROM THE LIKELIKE HIGHWAY INTERSECTION TO KAMEHAMEHA HIGHWAY," was adopted.

Stand. Com. Rep. No. 1699 (H.C.R. No. 34, H.D. 1):

On motion by Senator Green, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 34, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION AUTHORIZING THE ISSUANCE OF A TERM, NON-EXCLUSIVE EASEMENT COVERING A PORTION OF STATE SUBMERGED LANDS AT WAIMANALO, KOOLAUPOKO, OAHU, FOR THE USE, MAINTENANCE, AND REPAIR OF THE EXISTING SEAWALL AND STEPS," was adopted.

Stand. Com. Rep. No. 1700 (H.C.R. No. 29):

On motion by Senator Green, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 29, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES, AFTER CONSULTATION WITH THE DEPARTMENT OF TRANSPORTATION, TO DETERMINE THE COST OF PLACING AN OVERPASS OVER THE H-1 FREEWAY TO EXTEND BETWEEN NUUANU STREAM AND QUEEN EMMA STREET THAT WOULD REDUCE TRAFFIC NOISE POLLUTION AND BE USED AS A PARK OR OTHER COMMUNITY USE PURPOSE," was adopted.

H.C.R. No. 138, H.D. 1:

On motion by Senator Green, seconded by Senator Slom and carried, H.C.R. No. 138, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE DEPARTMENT OF EDUCATION TO EXAMINE ALL POSSIBILITIES TO ENABLE STUDENT ATHLETIC TEAMS TO RUN AND TRAIN OFF CAMPUS," was adopted.

H.C.R. No. 205, S.D. 1:

The Chair stated:

"Members, due to a clerical oversight, this resolution was not acted on in time to meet yesterday's crossover deadline for amended concurrent resolutions. After consulting with the subject matter committee chairs, the recommendation is for the Senate to reconsider its previous action in adopting Standing Committee Report No. 1691, then adopt the unamended House concurrent resolution and return it to the House. At this time, if there are no objections from the members, the Chair will entertain a motion for reconsideration at this time."

Senator Gabbard moved that the Senate reconsider its action taken on April 24, 2015, in adopting Stand. Com. Rep. No. 1691, seconded by Senator Green.

Senator Gabbard noted:

"Colleagues, this resolution requests the Department of Health to promptly investigate all alleged violations in the solid waste recycling industry and fairly and equally enforce applicable laws and regulations for all companies. In order to move this resolution forward, I am recommending that the Senate adopt this resolution in its original form. The only amendment contained in the S.D. 1 is new language regarding the importance and value of the management of waste through

solid waste recycling and alternative means of waste disposal. The original H.C.R. No. 205 accomplishes the same goal as the S.D. 1, so I ask for your favorable support of this motion.”

The motion was then put by the Chair and carried.

On motion by Senator Gabbard, seconded by Senator Green and carried, H.C.R. No. 205, entitled: “HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF HEALTH TO EXAMINE EXISTING AND ALLEGED VIOLATIONS IN THE SOLID WASTE RECYCLING INDUSTRY AND FAIRLY AND EQUALLY ENFORCE APPLICABLE LAWS AND REGULATIONS FOR ALL COMPANIES,” was adopted.

#### FINAL READING

S.B. No. 550, S.D. 1, H.D. 2:

Senator Green moved that S.B. No. 550, S.D. 1, H.D. 2, having been read throughout, pass Final Reading, seconded by Senator Espero.

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

“This is an interesting bill. It started out about tobacco and e-cigarettes – it was a bill that I actually signed onto, the original Senate Bill 550. Somewhere between the H.D. 1 and H.D. 2, it became about a new product called ‘powdered alcohol.’ Now, Madam President, I am the last person you want to talk to about alcohol and alcohol products, but I do have concerns, as I always do, about our state bragging about being the first to ban something.

“It’s interesting that the Alcohol and Tobacco Tax and Trade Bureau (TTB), which is a division of the Department of the Treasury, approved the sale of powdered alcohol products, or Palcohol, on March 10th of this year. Now, being a diligent member of the Senate, I sent my staff out to bring some packets of powdered alcohol so I could both show them and share them with my colleagues here. Unfortunately, they couldn’t bring me any of the powdered alcohol because there is none; it’s not available yet. And yet, we are going to ban the product before it’s even here, and we’re going to call it a public safety issue or public health issue. It is powdered alcohol. If we’re talking about a public health issue, then we would ban liquid alcohol, but we’re not going to do that. Why? Because it brings in a great deal of revenue, and that brings up another point here.

“If this bill passes and becomes law, then we will have to find funds to enforce the law and, at the same time, we will lose revenues that would ordinarily go to the state. In addition to that, this Senate has debated bills that had to do with the problem of glass recycling and the cost of glass. This helps solve that problem.

“But I’m most concerned about the fact that whenever there is a new product, whether it’s e-cigarettes or now powdered alcohol, we want to jump on top of it; we want to ban it; we want to regulate it out of business. And that’s the reputation that we’re getting in the State of Hawai’i. To ban a product before it’s even here, not to regulate or tax it as an alternative, to me, seems to be short-sighted. Thank you, Madam President.”

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 550, S.D. 1, and S.B. No. 550, S.D. 1, H.D. 2, entitled: “A BILL FOR AN ACT RELATING TO HEALTH,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 21; Ayes with Reservations (Espero, Ihara, Riviere). Noes, 2 (Slom, Thielen). Excused, 2 (Galuteria, Ruderman).

S.B. No. 982, S.D. 1, H.D. 2:

On motion by Senator Green, seconded by Senator Espero and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 982, S.D. 1, and S.B. No. 982, S.D. 1, H.D. 2, entitled: “A BILL FOR AN ACT RELATING TO MEDICAL AMNESTY,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Galuteria, Ruderman).

#### RECONSIDERATION OF ACTIONS TAKEN

S.B. No. 961, S.D. 2 (H.D. 3):

Senator Green moved that the Senate reconsider its action taken on April 16, 2015, in disagreeing to the amendments proposed by the House to S.B. No. 961, S.D. 2, seconded by Senator Chun Oakland 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. 961, S.D. 2, on the following showing of Ayes and Noes:

Ayes, 3 (Green, Keith-Agaran, Harimoto). Noes, none. Excused, 2 (Chun Oakland, Slom).

Senator Green then moved that the Senate agree to the amendments proposed by the House to S.B. No. 961, S.D. 2, seconded by Senator Chun Oakland.

Senator Green noted:

“Madam President, I think they made some good additions to this bill. They put in some additional protections that patients who are committed to assistant community treatment for mental illness, these protections be afforded to them by licensed psychiatrists having enough information about their petition to actually give them proper diagnosis and help. So, we agreed with the subject material of their changes. There were additional safety provisions, like I said, for the individual patients, and that was the means for us to agree. Plus, we did have to agree with their effective date.”

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 961, S.D. 2, and S.B. No. 961, S.D. 2, H.D. 3, entitled: “A BILL FOR AN ACT RELATING TO MENTAL HEALTH TREATMENT,” was placed on the calendar for Final Reading on Wednesday, April 29, 2015.

At this time, Senator Riviere thanked the members for their support of the food bank drive, and announced that the Senate’s efforts had raised approximately \$5,000 and collected nearly 500 pounds of food.

On behalf of the members of the Senate, the Chair thanked Senator Riviere and his staff for coordinating the food bank drive.

#### ADJOURNMENT

At 12:02 p.m., on motion by Senator Green, seconded by Senator Slom and carried, the Senate adjourned until 11:30 a.m., Wednesday, April 29, 2015.