

## FIFTY-SIXTH DAY

Wednesday, April 29, 2015

The Senate of the Twenty-Eighth Legislature of the State of Hawai'i, Regular Session of 2015, convened at 11:38 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-Fifth Day.

Senator Galuteria shared the history of Dr. Sun Yat-sen in Hawai'i, noting that the acknowledged Father of Modern China had attended what are now known as 'Iolani School and Punahou School. Senator Galuteria then introduced the following visitors who were present in the gallery: Leland Sun, great-grandson of Dr. Sun Yat-sen, and his wife, Peggy Sun; Steve and Lucy Yuan, members of the Dr. Sun Yat-sen Foundation; Yeyi Wang, vice president, Angbang Insurance Group Co., Ltd.; Xiaofeng Peng, chairman, SPI Solar; and HK Cheong, chief operating officer, SPI Solar.

Senator Kidani recognized her session intern Chelsea Robinson for her invaluable help throughout session with preparing for committee hearings and general office duties, noting that Chelsea was amazed at and intrigued by the amount of work that went into passing good legislation for the people of Hawai'i. Senator Kidani also noted that Chelsea was recognized as Hawai'i's Young Woman of Distinction in 2013, receiving a four-year scholarship to Hawai'i Pacific University; wished her good luck on her final exams as she ends her sophomore year; and thanked her for her hard work.

Senator Slom introduced internationally-acclaimed opera performer John Easterlin, who would be making his Hawaii Opera Theatre debut in the production of *Sweeney Todd*. Senator Slom noted that John Easterlin began his celebrated career on Broadway and had appeared in the *Great Performances* series on PBS, winning numerous awards and garnering international recognition for his performances worldwide.

## 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, letter dated April 24, 2015, transmitting a proposed conference draft (C.D. 1) amending S.B. No. 1077, S.D. 1, H.D. 1, to fund the settlement concerning Collective Bargaining Unit 2.

## HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 644 to 646) were read by the Clerk and were placed on file:

Hse. Com. No. 644, informing the Senate that on April 28, 2015, the House reconsidered its action taken on April 16, 2015, in disagreeing to the amendments proposed by the Senate to H.B. No. 467, H.D. 1 (S.D. 1).

Hse. Com. No. 645, informing the Senate that on April 28, 2015, the House reconsidered its action taken on April 14, 2015, in disagreeing to the amendments proposed by the Senate to H.B. No. 589, H.D. 1 (S.D. 1).

Hse. Com. No. 646, informing the Senate that on April 28, 2015, the House agreed to the amendments proposed by the Senate and passed the following House bills on Final Reading:

H.B. No. 268, H.D. 2, S.D. 1;  
H.B. No. 354, H.D. 2, S.D. 1;  
H.B. No. 525, H.D. 2, S.D. 2; and  
H.B. No. 1007, H.D. 1, S.D. 2.

## CONFERENCE COMMITTEE REPORTS

Senator Keith-Agaran, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate to H.B. No. 287, H.D. 1, presented a report (Conf. Com. Rep. No. 2) recommending that H.B. No. 287, H.D. 1, S.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. 2 and H.B. No. 287, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIFORM INFORMATION PRACTICES ACT," was deferred for a period of 48 hours.

Senator Gabbard, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House to S.B. No. 1049, S.D. 1, presented a report (Conf. Com. Rep. No. 3) recommending that S.B. No. 1049, 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. 3 and S.B. No. 1049, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTRONIC WASTE RECYCLING," was deferred for a period of 48 hours.

Senator Espero, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House to S.B. No. 878, S.D. 1, presented a report (Conf. Com. Rep. No. 4) recommending that S.B. No. 878, 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. 4 and S.B. No. 878, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO WASTEWATER," was deferred for a period of 48 hours.

Senator Espero, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House to S.B. No. 419, S.D. 2, presented a report (Conf. Com. Rep. No. 5) recommending that S.B. No. 419, S.D. 2, 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. 5 and S.B. No. 419, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO NEIGHBORHOOD BOARDS," was deferred for a period of 48 hours.

Senator Baker, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House to S.B. No. 1096, S.D. 1, presented a report (Conf. Com. Rep. No. 6) recommending that S.B. No. 1096, S.D. 1, H.D. 2, 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. 6 and S.B. No. 1096, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ON-BILL PROGRAMS," was deferred for a period of 48 hours.

Senator Baker, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate to H.B. No. 858, H.D. 2, presented a report (Conf. Com. Rep. No. 7) recommending that H.B. No. 858, H.D. 2, S.D. 2, 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. 7 and H.B. No. 858, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DOMESTIC VIOLENCE," was deferred for a period of 48 hours.

Senator Green, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate to H.B. No. 1075, H.D. 2, presented a report (Conf. Com. Rep. No. 8) recommending that H.B. No. 1075, H.D. 2, S.D. 2, 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. 8 and H.B. No. 1075, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," was deferred for a period of 48 hours.

Senator Chun Oakland, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate to H.B. No. 119, H.D. 2, presented a report (Conf. Com. Rep. No. 9) recommending that H.B. No. 119, H.D. 2, S.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. 9 and H.B. No. 119, H.D. 2, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," was deferred for a period of 48 hours.

#### STANDING COMMITTEE REPORT

Senator Taniguchi, for the Committee on Higher Education and the Arts, presented a report (Stand. Com. Rep. No. 1710) recommending that the Senate advise and consent to the nominations to the Board of Regents of the University of Hawaii of the following:

MICHAEL T. MCENERNEY, in accordance with Gov. Msg. No. 546;

DAVID IHA, in accordance with Gov. Msg. No. 547;

ERNEST WILSON, JR., in accordance with Gov. Msg. No. 548;

HELEN NIELSEN, in accordance with Gov. Msg. No. 549;

SIMEON ACOBA, JR., in accordance with Gov. Msg. No. 550; and

WAYNE HIGAKI, in accordance with Gov. Msg. No. 551.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1710 and Gov. Msg. Nos. 546, 547, 548, 549, 550 and 551 was deferred until Thursday, April 30, 2015.

#### ORDER OF THE DAY

##### AGREE/DISAGREE

##### MATTERS DEFERRED FROM TUESDAY, APRIL 28, 2015

S.C.R. No. 57, S.D. 1 (H.D. 1):

Senator Gabbard moved that the Senate agree to the amendments proposed by the House to S.C.R. No. 57, S.D. 1, seconded by Senator Green.

Senator Gabbard noted:

"Colleagues, we are in accord with the House version because their amendments were only for the purpose of adding the congressional delegation as members of the Red Hill Underground Fuel Storage Facility Task Force. This change strengthens the important work of the task force, which is essentially to protect our water supply and our environment."

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.C.R. No. 57, S.D. 1, and 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 placed on the calendar for Final Adoption on Thursday, April 30, 2015.

S.C.R. No. 107, S.D. 1 (H.D. 1):

Senator Chun Oakland moved that the Senate agree to the amendments proposed by the House to S.C.R. No. 107, S.D. 1, seconded by Senator Green.

Senator Chun Oakland noted:

"The House proposed a legislative working group composed of two representatives from the Kupuna Caucus, two chairs of Health, and two chairs of Human Services. We are going to be working during the interim on legislative and regulatory recommendations for next session to address the training for family caregivers for patients who are discharged from hospitals. Thank you."

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.C.R. No. 107, S.D. 1, and 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 placed on the calendar for Final Adoption on Thursday, April 30, 2015.

#### ADVISE AND CONSENT

Stand. Com. Rep. No. 1704 (Gov. Msg. No. 820):

Senator Thielen moved that Stand. Com. Rep. No. 1704 be received and placed on file, seconded by Senator Galuteria and carried.

Senator Thielen then moved that the Senate advise and consent to the nomination of WILLIAM BALFOUR, JR. to the Commission on Water Resource Management, term to expire June 30, 2019, seconded by Senator Galuteria.

Senator English rose to speak in opposition to the nominee as follows:

"Being the senator from East Maui, in particular, I have to note for the record here the contested water cases on the east side of Maui, and this has been going on for many, many years. I know that back in, I think it was 2006 or 2007, there were hearings on the east side. The difference was this, that all the other hearings were contested case hearings; this one was done by rule. Right now it's at the supreme court; right now they're still fighting over this. And I think that the people of East Maui really got the short end of the stick on this. So it's nothing personal with Mr. Balfour, but I think we need to have a new perspective, and we need to have a new view on the board to look at this issue and examine it very carefully. So my vote is 'no' on this for those reasons. Thank you."

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

Ayes, 21; Ayes with Reservations (Chun Oakland, Gabbard, Ihara, Keith-Agaran, Shimabukuro). Noes, 4 (English, Green, Riviere, Ruderman).

Stand. Com. Rep. No. 1705 (Gov. Msg. Nos. 634 and 635):

Senator Taniguchi moved that Stand. Com. Rep. No. 1705 be received and placed on file, seconded by Senator Inouye and carried.

Senator Taniguchi then moved that the Senate advise and consent to the nominations to the Center for Nursing Advisory Board of the following:

ELIZABETH HOBAN, term to expire June 30, 2018 (Gov. Msg. No. 634); and

SUSAN LEE, term to expire June 30, 2018 (Gov. Msg. No. 635),

seconded by Senator Inouye.

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. 1706 (Gov. Msg. Nos. 762, 763, 764, 765 and 766):

Senator Taniguchi moved that Stand. Com. Rep. No. 1706 be received and placed on file, seconded by Senator Inouye and carried.

Senator Taniguchi then moved that the Senate advise and consent to the nominations to the State Foundation on Culture and the Arts of the following:

DEAN SAKAMOTO, term to expire June 30, 2018 (Gov. Msg. No. 762);

JANE CLEMENT, term to expire June 30, 2018 (Gov. Msg. No. 763);

KAREN POLIVKA, term to expire June 30, 2018 (Gov. Msg. No. 764);

NOELLE KAHANU, term to expire June 30, 2018 (Gov. Msg. No. 765); and

PATRICIA HAMAMOTO, term to expire June 30, 2019 (Gov. Msg. No. 766),

seconded by Senator Inouye.

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. 1707 (Gov. Msg. Nos. 809 and 810):

Senator Taniguchi moved that Stand. Com. Rep. No. 1707 be received and placed on file, seconded by Senator Inouye and carried.

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

KAI DUPONTE, term to expire June 30, 2016 (Gov. Msg. No. 809); and

RONALDO MATA, term to expire June 30, 2018 (Gov. Msg. No. 810),

seconded by Senator Inouye.

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. 1708 (Gov. Msg. Nos. 811 and 812):

Senator Taniguchi moved that Stand. Com. Rep. No. 1708 be received and placed on file, seconded by Senator Inouye and carried.

Senator Taniguchi then moved that the Senate advise and consent to the nominations to the Hawai'i Historic Places Review Board of the following:

MATT MCDERMOTT, term to expire June 30, 2018 (Gov. Msg. No. 811); and

ZACHARY I. BANTOLINA, term to expire June 30, 2018 (Gov. Msg. No. 812),

seconded by Senator Inouye.

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. 1709 (Gov. Msg. Nos. 876, 877, 878, 879, 880, 881, 882 and 883):

Senator Chun Oakland moved that Stand. Com. Rep. No. 1709 be received and placed on file, seconded by Senator Green and carried.

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

GEORGE MASSENGALE, term to expire June 30, 2016 (Gov. Msg. No. 876);

GWEN KELIHOOMALU, term to expire June 30, 2017 (Gov. Msg. No. 877);

MARK TRAVALINO, term to expire June 30, 2016 (Gov. Msg. No. 878);

MICHELE KU, term to expire June 30, 2018 (Gov. Msg. No. 879);

RENE BERTHIAUME, term to expire June 30, 2018 (Gov. Msg. No. 880);

RODERICK MACDONALD, term to expire June 30, 2016 (Gov. Msg. No. 881);

LANELLE YAMANE, term to expire June 30, 2016 (Gov. Msg. No. 882); and

KRISTINE TAKEKAWA, term to expire June 30, 2017 (Gov. Msg. No. 883),

seconded by Senator Green.

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

Ayes, 25. Noes, none.

At this time, Senator Thielen introduced William Balfour, newly confirmed member of the Commission on Water Resource Management, who was present in the gallery with his wife, Dee Balfour; Peter Carlisle, former mayor of the City and County of Honolulu; and other friends and supporters.

### FINAL READING

Conf. Com. Rep. No. 1 (H.B. No. 952, H.D. 2, S.D. 1, C.D. 1):

On motion by Senator Keith-Agaran, seconded by Senator Shimabukuro and carried, Conf. Com. Rep. No. 1 was adopted and H.B. No. 952, H.D. 2, S.D. 1, C.D. 1, entitled: "A BILL

FOR AN ACT RELATING TO WAGES AND HOURS ON PUBLIC WORKS LAW,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

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

On motion by Senator Green, seconded by Senator Chun Oakland 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,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

#### RECONSIDERATION OF ACTIONS TAKEN

S.B. No. 211, S.D. 1 (H.D. 1):

Senator Keith-Agaran 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. 211, S.D. 1, seconded by Senator Green 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. 211, S.D. 1, on the following showing of Ayes and Noes:

Ayes, 2 (Keith-Agaran, Shimabukuro). Noes, none. Excused, 1 (Slom).

Senator Keith-Agaran then moved that the Senate agree to the amendments proposed by the House to S.B. No. 211, S.D. 1, seconded by Senator Green.

Senator Keith-Agaran noted:

“This bill was introduced to establish the penalties for this crime. The difference was the Senate’s position was to create a felony and the House position was to establish a misdemeanor, and we were agreeable to the House position as well as the effective date that they had.”

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 211, S.D. 1, and S.B. No. 211, S.D. 1, H.D. 1, entitled: “A BILL FOR AN ACT RELATING TO FORENSIC IDENTIFICATION,” was placed on the calendar for Final Reading on Thursday, April 30, 2015.

S.B. No. 440, S.D. 1 (H.D. 1):

Senator Keith-Agaran 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. 440, S.D. 1, seconded by Senator Green 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. 440, S.D. 1, on the following showing of Ayes and Noes:

Ayes, 2 (Keith-Agaran, Shimabukuro). Noes, none. Excused, 1 (Slom).

Senator Keith-Agaran then moved that the Senate agree to the amendments proposed by the House to S.B. No. 440, S.D. 1, seconded by Senator Green.

Senator Keith-Agaran noted:

“The House draft was basically the same as ours except for an 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. 440, S.D. 1, and S.B. No. 440, S.D. 1, H.D. 1, entitled: “A BILL FOR AN ACT RELATING TO VACANCIES,” was placed on the calendar for Final Reading on Thursday, April 30, 2015.

S.B. No. 1066, S.D. 1 (H.D. 1):

Senator Keith-Agaran 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. 1066, S.D. 1, seconded by Senator Green 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. 1066, S.D. 1, on the following showing of Ayes and Noes:

Ayes, 5 (Keith-Agaran, Espero, Ihara, Shimabukuro, Slom). Noes, none. Excused, none.

Senator Keith-Agaran then moved that the Senate agree to the amendments proposed by the House to S.B. No. 1066, S.D. 1, seconded by Senator Green.

Senator Keith-Agaran noted:

“The difference between the two bills was they had a ‘shall’ rather than a ‘may,’ and also that they established the family court as the appropriate tribunal, as the registering tribunal, for purposes of this act.”

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 1066, S.D. 1, and S.B. No. 1066, S.D. 1, H.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE UNIFORM INTERSTATE FAMILY SUPPORT ACT,” was placed on the calendar for Final Reading on Thursday, April 30, 2015.

The Chair made the following announcement:

“Conferees are named in accordance with the action sheets which may be updated later today.”

#### APPOINTMENT OF CONFEREES

H.B. No. 169, H.D. 1 (S.D. 1):

In accordance with the disagreement of the House to the amendments proposed by the Senate to H.B. No. 169, H.D. 1, and the request for a conference on the subject matter thereof, the President appointed Senators Kahele, chair; Tokuda, co-chair; Kouchi as manager on the part of the Senate at such conference.

#### ADJOURNMENT

At 11:57 a.m., on motion by Senator Green, seconded by Senator Slom and carried, the Senate adjourned until 6:30 p.m., Thursday, April 30, 2015.