

FIFTY-FIFTH DAY

Tuesday, April 23, 2019

The Senate of the Thirtieth Legislature of the State of Hawai'i, Regular Session of 2019, convened at 11:37 a.m. with the President in the Chair.

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

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

At this time, Senator Rhoads recognized his friend Ken Farm, who was seated in the gallery.

Senator Kahele introduced Idaho State Senator Mary Souza, a classmate from the 2018 Council of State Governments West leadership academy, who was seated in the gallery with her husband, Rick.

MESSAGE FROM THE GOVERNOR

The following message from the Governor (Gov. Msg. No. 1114) was read by the Clerk and was placed on file:

Gov. Msg. No. 1114, dated April 18, 2019, informing the Senate that on April 17, 2019, the Governor allowed the following measure to become law without signature, which reads as follows:

Senate Bill No. 464, S.D. 2 as Act 13, entitled: "RELATING TO PRIVATE PROPERTY."

"Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

Re: SB464 SD2

SB464 SD2, entitled "A BILL FOR AN ACT RELATING TO PRIVATE PROPERTY." will become law without my signature, pursuant to Section 16 of Article III of the State Constitution.

Albizia has become one of Hawai'i's most detrimental invasive plant species and is overtaking our natural ecosystems. Its rapid growth rate produces a large number of trunks and limbs that are structurally weak. Tropical Storm Iselle demonstrated that albizia can cause significant damage to infrastructure and be a threat to human life. To address the increasing concern, Hawai'i Invasive Species Council released the "Strategic Plan for the Control and Management of Albizia in Hawai'i" in 2018. Although the State has been actively addressing the situation, there is no mechanism to control albizia on private property.

The purpose of this bill is to authorize a property owner or agent to enter adjacent vacant privately owned real property with albizia to control the trees before they become hazardous. The property owner or agent must meet the following criteria before proceeding:

1. Consult with a certified arborist to confirm that the albizia trees are creating a condition that could become hazardous, but can be safely addressed.
2. Unsuccessfully make two or more reasonable attempts to contact the owner of the adjacent private property within the previous thirty days via telephone or registered mail
3. Give written notice to the adjacent property owner prior to accessing the adjacent property to prevent the property from mistakenly being determined vacant.

The bill also establishes a defense for the entering property owner or agent to criminal prosecution for criminal trespass and criminal property damage offenses.

Although SB464 SD2 addresses the control of albizia on private property, there are some concerns about its implementation and

enforcement. The bill is adding a new section to the Hawai'i Penal Code in chapter 708, Hawaii Revised Statutes (HRS) that addresses offenses against property rights. However, a law that does not create criminal offenses, but rather allows entry onto private property to control albizia, should not be added to this section of HRS. The provision also creates a rather broad defense for the person entering another's land in regards to criminal property damage offenses. Perhaps the defense should have been limited to the damage of albizia trees instead of general property damage.

Placing this new law into the Hawai'i Penal Code, also places the burden on the prosecutor's office to disprove beyond a reasonable doubt that the property owner or agent entered an adjacent vacant property without fulfilling the prerequisites of this statute. This would result in the owner or agent entering the property not having to prove compliance with the albizia control provisions.

The requirement to consult with a certified arborist could create difficulties. It is unclear how the certified arborist is to legally enter the private property if necessary to make an assessment.

The bill does not require any experience or licensure to fell or remove the targeted tree and lacks disposal requirements. This could result in unintended propagation of albizia in other area of previously unaffected lands.

Finally, the language of SB464 SD2 is very vague. The bill defines "vacant" as "improved or unimproved but having no reasonable indication of use or maintenance for one year or more." The term "vacant" is extremely important to this bill, as the bill is authorizing entry onto another person's private property, provided it is vacant. The definition of "vacant" is unclear and the terms "improved" and "unimproved" are not defined in this section. Also, the phrase "indication of use or maintenance for one year or more" can be interpreted in many ways. The concerns over these terms could lead to unintended circumstances.

Despite the concerns, SB464 SD2 will provide a mechanism to remove hazardous albizia so that landowners can have an option to protect themselves and their infrastructure from damage.

For the foregoing reasons, SB464 SD2 will become law as ACT 013 (19), Session Laws of Hawaii 2019, without my signature.

Sincerely,
/s/David Y. Ige
DAVID Y. IGE
Governor, State of Hawaii"

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 825 to 851) were read by the Clerk and were disposed of as follows:

Hse. Com. No. 825, informing the Senate that on April 22, 2019, the Speaker appointed conferees on the part of the House for the consideration of amendments proposed by the Senate to the following House bills:

H.B. No. 18, H.D. 1 (S.D. 1):

Representatives Lee, Nakamura, co-chairs; Belatti, McDermott.

H.B. No. 257, H.D. 2 (S.D. 1):

Representatives San Buenaventura, Brower, Nakamura, co-chairs; Cullen, McDermott.

- H.B. No. 307 (S.D. 1):
Representatives Lowen, Takumi, Cullen, co-chairs; McDermott.
- H.B. No. 312, H.D. 1 (S.D. 2):
Representatives Woodson, Luke, co-chairs; Okimoto.
- H.B. No. 483, H.D. 2 (S.D. 2):
Representatives Cullen, Lee, Nakamura, co-chairs; Ward.
- H.B. No. 629, H.D. 2 (S.D. 2):
Representatives Takayama, San Buenaventura, Gates, co-chairs; McDermott.
- H.B. No. 1025, H.D. 1 (S.D. 2):
Representatives Yamane, Todd, co-chairs; Holt, Onishi, McDermott.
- H.B. No. 1062, H.D. 1 (S.D. 1):
Representatives Ohno, McKelvey, Gates, co-chairs; McDermott.
- H.B. No. 1133, H.D. 2 (S.D. 2):
Representatives Yamane, Lee, Todd, co-chairs; Wildberger, Thielen.
- H.B. No. 1191, H.D. 1 (S.D. 2):
Representatives Johanson, Luke, co-chairs; Matsumoto.
- H.B. No. 1319, H.D. 2 (S.D. 2):
Representatives Lowen, Cullen, co-chairs; McDermott.
- H.B. No. 1453, H.D. 1 (S.D. 1):
Representatives Mizuno, Luke, co-chairs; Cullen, Ward.
- H.B. No. 1546, H.D. 1 (S.D. 1):
Representatives Mizuno, B. Kobayashi, co-chairs; Ward.
- H.B. No. 1585, H.D. 1 (S.D. 2):
Representatives Lowen, Aquino, Takumi, Luke, co-chairs; Thielen.
- H.B. No. 1586, H.D. 1 (S.D. 2):
Representatives Johanson, Yamane, Luke, co-chairs; Cullen, Thielen.
Hse. Com. No. 826, informing the Senate that on April 22, 2019, 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. 192, S.D. 1 (H.D. 2):
Representatives Takayama, Lee, Gates, co-chairs; McDermott.
- S.B. No. 216, S.D. 2 (H.D. 1):
Representatives Lee, Cullen, co-chairs; Thielen.
- S.B. No. 281, S.D. 1 (H.D. 2):
Representatives Mizuno, Luke, co-chairs; Ward.
- S.B. No. 381, S.D. 2 (H.D. 1):
Representatives Yamane, Creagan, Takumi, Cullen, co-chairs; Okimoto.
- S.B. No. 383, S.D. 2 (H.D. 1):
Representatives Woodson, Mizuno, Kitagawa, co-chairs; Okimoto.
- S.B. No. 388, S.D. 2 (H.D. 2):
Representatives Woodson, Lee, Cullen, co-chairs; Okimoto.
- S.B. No. 412, S.D. 2 (H.D. 1):
Representatives Lee, Cullen, co-chairs; Thielen.
- S.B. No. 417, S.D. 2 (H.D. 2):
Representatives Johanson, Mizuno, Luke, co-chairs; Cullen, Matsumoto.
- S.B. No. 427, S.D. 2 (H.D. 1):
Representatives Lee, Cullen, co-chairs; San Buenaventura, Okimoto.
- S.B. No. 661, S.D. 1 (H.D. 1):
Representatives Lowen, Aquino, Johanson, Cullen, co-chairs; Thielen.
- S.B. No. 752, S.D. 1 (H.D. 1):
Representatives Creagan, Woodson, Cullen, co-chairs; Okimoto.
- S.B. No. 753, S.D. 2 (H.D. 1):
Representatives Creagan, Cullen, co-chairs; Okimoto.
- S.B. No. 754, S.D. 1 (H.D. 1):
Representatives Creagan, Cullen, co-chairs; Okimoto.
- S.B. No. 759, S.D. 2 (H.D. 1):
Representatives Creagan, Lee, Cullen, co-chairs; Okimoto.
- S.B. No. 763, S.D. 2 (H.D. 1):
Representatives McKelvey, Creagan, Kitagawa, co-chairs; Matsumoto.
- S.B. No. 768, S.D. 1 (H.D. 2):
Representatives Mizuno, Takumi, Nishimoto, co-chairs; Ward.
- S.B. No. 859, S.D. 1 (H.D. 1):
Representatives Yamashita, chair; Cullen, Eli, Gates, Hashimoto, Holt, Kitagawa, B. Kobayashi, Luke, Matayoshi, Nakamura, Nishimoto, Todd, Wildberger, McDermott.
- S.B. No. 972, S.D. 1 (H.D. 1):
Representatives McKelvey, Kitagawa, co-chairs; Cullen, Matsumoto.
- S.B. No. 978, S.D. 1 (H.D. 2):
Representatives Woodson, Lee, Matayoshi, co-chairs; Okimoto.
- S.B. No. 985, S.D. 1 (H.D. 1):
Representatives McKelvey, Kitagawa, co-chairs; Cullen, Matsumoto.
- S.B. No. 989, S.D. 2 (H.D. 2):
Representatives McKelvey, Luke, co-chairs; Matsumoto.
- S.B. No. 1000, S.D. 2 (H.D. 2):
Representatives Lowen, Aquino, Takumi, Wildberger, co-chairs; Thielen.

- S.B. No. 1002, S.D. 1 (H.D. 1):
Representatives Lowen, McKelvey, Cullen, Wildberger, co-chairs; McDermott.
- S.B. No. 1150, S.D. 2 (H.D. 1):
Representatives Creagan, Cullen, co-chairs; Okimoto.
- S.B. No. 1192, S.D. 2 (H.D. 1):
Representatives Johanson, Luke, co-chairs; Matsumoto.
- S.B. No. 1193, S.D. 2 (H.D. 1):
Representatives Johanson, Luke, co-chairs; Matsumoto.
- S.B. No. 1194, S.D. 2 (H.D. 1):
Representatives Johanson, Luke, co-chairs; Matsumoto.
- S.B. No. 1195, S.D. 2 (H.D. 1):
Representatives Johanson, Luke, co-chairs; Matsumoto.
- S.B. No. 1196, S.D. 2 (H.D. 1):
Representatives Johanson, Luke, co-chairs; Matsumoto.
- S.B. No. 1197, S.D. 2 (H.D. 1):
Representatives Johanson, Luke, co-chairs; Matsumoto.
- S.B. No. 1198, S.D. 2 (H.D. 1):
Representatives Johanson, Luke, co-chairs; Matsumoto.
- S.B. No. 1199, S.D. 2 (H.D. 1):
Representatives Johanson, Luke, co-chairs; Matsumoto.
- S.B. No. 1201, S.D. 2 (H.D. 1):
Representatives Johanson, Luke, co-chairs; Matsumoto.
- S.B. No. 1202, S.D. 2 (H.D. 1):
Representatives Johanson, Luke, co-chairs; Matsumoto.
- S.B. No. 1203, S.D. 2 (H.D. 1):
Representatives Johanson, Luke, co-chairs; Matsumoto.
- S.B. No. 1314, S.D. 1 (H.D. 1):
Representatives McKelvey, Kitagawa, co-chairs; Cullen, McDermott.
- S.B. No. 1348, S.D. 1 (H.D. 1):
Representatives McKelvey, Lee, Kitagawa, co-chairs; Matsumoto.
- S.B. No. 1405, S.D. 2 (H.D. 2):
Representatives Mizuno, Takumi, Lee, Nishimoto, co-chairs; Matsumoto.
- S.B. No. 1436, S.D. 2 (H.D. 1):
Representatives Creagan, McKelvey, Cullen, co-chairs; Okimoto.
- S.B. No. 1442, S.D. 1 (H.D. 1):
Representatives Lowen, Takumi, Wildberger, co-chairs; Thielen.
- S.B. No. 1530, S.D. 3 (H.D. 2):
Representatives Johanson, Yamane, Luke, co-chairs; Matsumoto.
- S.B. No. 1539, S.D. 1 (H.D. 1):
Representatives Takayama, Lee, Gates, co-chairs.
Hse. Com. No. 827, informing the Senate that on April 22, 2019, the Speaker made the following changes to the conferees on the following bill:
H.B. No. 323, H.D. 1 (S.D. 1):
Representative McDermott added as a manager.
Representative Okimoto discharged as a manager.
Hse. Com. No. 828, informing the Senate that on April 22, 2019, the Speaker discharged all conferees to H.B. No. 307 (S.D. 1).
Hse. Com. No. 829, informing the Senate that on April 22, 2019, the House agreed to the amendments proposed by the Senate and passed H.B. No. 655, H.D. 1, S.D. 1 on Final Reading.
Hse. Com. No. 830, returning S.C.R. No. 15, which was adopted by the House of Representatives on April 22, 2019.
Hse. Com. No. 831, returning S.C.R. No. 16, which was adopted by the House of Representatives on April 22, 2019.
Hse. Com. No. 832, returning S.C.R. No. 28, which was adopted by the House of Representatives on April 22, 2019.
Hse. Com. No. 833, returning S.C.R. No. 49, S.D. 1, which was adopted by the House of Representatives on April 22, 2019.
Hse. Com. No. 834, returning S.C.R. No. 70, which was adopted by the House of Representatives on April 22, 2019.
Hse. Com. No. 835, returning S.C.R. No. 86, which was adopted by the House of Representatives on April 22, 2019.
Hse. Com. No. 836, returning S.C.R. No. 119, S.D. 1, which was adopted by the House of Representatives on April 22, 2019.
Hse. Com. No. 837, returning S.C.R. No. 120, S.D. 1, which was adopted by the House of Representatives on April 22, 2019.
Hse. Com. No. 838, returning S.C.R. No. 136, which was adopted by the House of Representatives on April 22, 2019.
Hse. Com. No. 839, returning S.C.R. No. 147, which was adopted by the House of Representatives on April 22, 2019.
Hse. Com. No. 840, returning S.C.R. No. 164, which was adopted by the House of Representatives on April 22, 2019.
Hse. Com. No. 841, returning S.C.R. No. 171, S.D. 1, which was adopted by the House of Representatives on April 22, 2019.
Hse. Com. No. 842, returning S.C.R. No. 174, which was adopted by the House of Representatives on April 22, 2019.
Hse. Com. No. 843, returning S.C.R. No. 211, S.D. 1, which was adopted by the House of Representatives on April 22, 2019.
Hse. Com. No. 844, returning S.C.R. No. 3, S.D. 1, which was amended in H.D. 1, which was adopted by the House of Representatives on April 22, 2019.
By unanimous consent, action on S.C.R. No. 3, S.D. 1 (H.D. 1), entitled: "SENATE CONCURRENT RESOLUTION CONVENING A TASK FORCE TO STUDY THE ISSUE OF RESIDENTIAL SPRINKLER COSTS IN NEW ONE- AND TWO-FAMILY DWELLINGS," was deferred until Wednesday, April 24, 2019.
Hse. Com. No. 845, returning S.C.R. No. 112, S.D. 1, as amended in H.D. 1, which was adopted by the House of Representatives on April 22, 2019.

By unanimous consent, action on S.C.R. No. 112, S.D. 1 (H.D. 1), entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE AUDITOR TO CONDUCT A COMPREHENSIVE PERFORMANCE AND MANAGEMENT AUDIT OF THE CITY AND COUNTY OF HONOLULU DEPARTMENT OF ENVIRONMENTAL SERVICES," was deferred until Wednesday, April 24, 2019.

Hse. Com. No. 846, informing the Senate that on April 22, 2019, H.B. No. 330, H.D. 1, S.D. 1, C.D. 1 passed Final Reading in the House of Representatives.

Hse. Com. No. 847, informing the Senate that on April 22, 2019, the Speaker discharged all conferees to the following bills:

H.B. No. 169, H.D. 1 (S.D. 2);
H.B. No. 497, H.D. 1 (S.D. 2); and
H.B. No. 1007 (S.D. 1).

Hse. Com. No. 848, informing the Senate that on April 22, 2019, 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. 1219, H.D. 1 (S.D. 2):

Representatives Yamane, Luke, co-chairs; Onishi, Todd, McDermott.

Hse. Com. No. 849, informing the Senate that on April 22, 2019, 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. 33, S.D. 3 (H.D. 2):

Representatives McKelvey, Woodson, Cullen, co-chairs; Matsumoto.

S.B. No. 365, S.D. 2 (H.D. 1):

Representatives McKelvey, Cullen, co-chairs; Matsumoto.

S.B. No. 409, S.D. 2 (H.D. 1):

Representatives Aquino, Cullen, co-chairs; Hashimoto, Hashem, Matsumoto.

S.B. No. 1440, S.D. 1 (H.D. 1):

Representatives Lowen, Wildberger, co-chairs; Thielen.

Hse. Com. No. 850, informing the Senate that on April 23, 2019, 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. 1007 (S.D. 1):

Representatives Cullen, chair; Eli, McDermott.

Hse. Com. No. 851, informing the Senate that on April 23, 2019, the Speaker discharged all conferees to H.B. No. 398, H.D. 1 (S.D. 2).

CONFERENCE COMMITTEE REPORT

Senator Rhoads, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate to H.B. No. 170, H.D. 1, presented a report (Conf. Com. Rep. No. 3) recommending that H.B. No. 170, 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. 3 and H.B. No. 170, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ETHICS," was deferred for a period of 48 hours.

STANDING COMMITTEE REPORTS

Senator Kim, for the Committee on Higher Education, presented a report (Stand. Com. Rep. No. 2230) recommending that the Senate advise and consent to the nominations to the Board of Regents of the University of Hawai'i of the following:

ROBERT WESTERMAN, in accordance with Gov. Msg. No. 570;

ALAPAKI NAHALE-A, in accordance with Gov. Msg. No. 571; and

KELLI ACOPAN, in accordance with Gov. Msg. No. 572.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 2230 and Gov. Msg. Nos. 570, 571, and 572 was deferred until Wednesday, April 24, 2019.

Senator Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 2231) recommending that the Senate advise and consent to the nomination of WILLIAM PUETTE to the Civil Rights Commission, in accordance with Gov. Msg. No. 649.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 2231 and Gov. Msg. No. 649 was deferred until Wednesday, April 24, 2019.

Senator Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 2232) recommending that the Senate advise and consent to the nomination of TERRI MOTOSUE to the Commission on the Status of Women, in accordance with Gov. Msg. No. 710.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 2232 and Gov. Msg. No. 710 was deferred until Wednesday, April 24, 2019.

Senator Kahele, for the Committee on Water and Land, presented a report (Stand. Com. Rep. No. 2233) recommending that the Senate advise and consent to the nomination of SUZANNE D. CASE as Chair of the Department of Land and Natural Resources, in accordance with Gov. Msg. No. 608.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 2233 and Gov. Msg. No. 608 was deferred until Wednesday, April 24, 2019.

Senator Kahele, for the Committee on Water and Land, presented a report (Stand. Com. Rep. No. 2234) recommending that the Senate advise and consent to the nomination of ROBERT K. MASUDA as Deputy to the Chair of the Department of Land and Natural Resources, in accordance with Gov. Msg. No. 609.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 2234 and Gov. Msg. No. 609 was deferred until Wednesday, April 24, 2019.

Senator Nishihara, for the Committee on Public Safety, Intergovernmental and Military Affairs, presented a report (Stand. Com. Rep. No. 2235) recommending that the Senate not advise and consent to the nomination of NOLAN P. ESPINDA as Director of the Department of Public Safety, in accordance with Gov. Msg. No. 543.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 2235 and Gov. Msg. No. 543 was deferred until Wednesday, April 24, 2019.

Senator Chang, for the Committee on Housing, presented a report (Stand. Com. Rep. No. 2236) recommending that H.C.R. No. 161, H.D. 1 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 2236 and H.C.R. No. 161, H.D. 1, entitled: "HOUSE

CONCURRENT RESOLUTION REQUESTING THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY TO STUDY PROPERTIES IN OR AROUND KAKAAKO TO RECOMMEND APPROPRIATE SITES FOR A NEW FIRE STATION OR, ALTERNATIVELY, TO IDENTIFY EXISTING FIRE STATIONS THAT MAY BE RELOCATED OR EXPANDED TO MORE EFFECTIVELY SERVE THE KAKAAKO COMMUNITY,” was deferred until Wednesday, April 24, 2019.

ORDER OF THE DAY

AGREE/DISAGREE

MATTERS DEFERRED FROM MONDAY, APRIL 22, 2019

S.C.R. No. 38, S.D. 1 (H.D. 1):

Senator Baker moved that the Senate agree to the amendments proposed by the House to S.C.R. No. 38, S.D. 1, seconded by Senator Kahele.

Senator Baker noted:

“The House Draft 1 is substantially similar to the Senate version except for one section that was removed at the Department of Health’s request. All stakeholders are in agreement on the amended resolution; that’s why I’d like for us to move to agree.”

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.C.R. No. 38, S.D. 1, and S.C.R. No. 38, S.D. 1, H.D. 1, entitled: “SENATE CONCURRENT RESOLUTION URGING RESTAURANTS TO DONATE ANY LEFTOVER FOOD TO HOMELESS SHELTERS AT THE END OF THEIR BUSINESS DAY AND URGING THE DEPARTMENT OF HEALTH TO DEVELOP AND DISSEMINATE TEMPERATURE CONTROLLED FOR SAFETY FOOD DONATION GUIDELINES,” was placed on the calendar for Final Adoption on Wednesday, April 24, 2019.

S.C.R. No. 204 (H.D. 2):

Senator Shimabukuro moved that the Senate agree to the amendments proposed by the House to S.C.R. No. 204, seconded by Senator Kahele.

Senator Shimabukuro noted:

“This measure establishes a legal system to protect Native Hawaiian intellectual property. The House added the Aha Moku Advisory Committee and the Native Hawaiian Bar Association to the task force as requested by advocates, and both myself and the introducer of this resolution agree to these amendments, so I urge my colleagues to support this measure. 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. 204, and S.C.R. No. 204, H.D. 2, entitled: “SENATE CONCURRENT RESOLUTION URGING THE ESTABLISHMENT OF A NATIVE HAWAIIAN INTELLECTUAL PROPERTY TASK FORCE TO DEVELOP A SUI GENERIS LEGAL SYSTEM TO RECOGNIZE AND PROTECT NATIVE HAWAIIAN CULTURAL INTELLECTUAL PROPERTY, TRADITIONAL CULTURAL EXPRESSIONS, AND GENETIC RESOURCES,” was placed on the calendar for Final Adoption on Wednesday, April 24, 2019.

ADVISE AND CONSENT

Stand. Com. Rep. No. 2218 (Gov. Msg. No. 599):

Senator Nishihara moved that Stand. Com. Rep. No. 2218 be received and placed on file, seconded by Senator Wakai and carried.

Senator Nishihara then moved that the Senate advise and consent to the nomination of ARTHUR J. LOGAN as Adjutant General of the Department of Defense, term to expire at noon on December 5, 2022, seconded by Senator Wakai.

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

“Appointed as the adjutant general in 2015, not only was General Logan in charge of the training and preparedness of 5,500 soldiers and airmen of the Hawaii National Guard, he also provided direct support to the Office of Veterans’ Services, and the homeland security advisor to the governor as the director of the Hawaii Emergency Management Agency.

“Prior to his appointment, his past positions have deemed him to be a man of action, responsibility, and integrity. Since receiving his officer-commissioned status from the Hawaii Army National Guard in 1984, he was a brigade engineer officer responsible for providing full support to the wide range of engineering duties for the Army like building structures, developing civil works programs, and even providing combat support. As a platoon leader, General Logan not only maintained combat equipment like rifles and explosive mortar weaponry, he also made sure that discipline, training, and the morale of his men were up to par. In a position that engaged military involvement in the war on drugs, General Logan was even a counterdrug coordinator who detected, monitored, and combatted the production, trafficking, and use of illegal drugs. The value of these experiences is memorialized in 19 merit medals, badges, and ribbons, which include the Bronze Star Medal, awarded to members of the U.S. Armed Forces for heroic achievement and for merits of service in a combat zone; the National Defense Service Medal, which recognizes all military members who were on active duty during a declared national emergency; the Global War on Terrorism Expeditionary Medal, which recognizes military service members who have deployed overseas in direct service to the War on Terror; and several Hawaii National Guard medals and ribbons that honor General Logan for his humanitarianism and involvement in Hurricane Iniki. General Logan served several years as commander of field artillery, a combat arms branch that neutralizes the enemy by cannon, rocket, and missile fire. And, most recently, in a mission which ended in 2014, General Logan was also in command in Operation Enduring Freedom, a 13-year combat mission in Kabul, Afghanistan.

“In addition to General Logan’s vast, 36 years of service, he has a bachelor’s degree in justice administration and management from HPU, and a master’s degree in strategic studies from the United States War College, among other exemplary academic accomplishments, all of which have enhanced his expertise in military tactics, techniques, and procedures.

“In 2010, General Logan was the chief of staff for the Hawaii Army National Guard. Truly epitomizing the word *leadership*, this quote by American five-star general Douglas MacArthur applies to our gubernatorial nominee. General MacArthur was chief of staff of the United States Army during the 1930s and played a prominent role in the Pacific Islands during World War II, and I quote: ‘A true leader has the confidence to stand alone, the courage to make tough decisions, and the compassion to listen to the needs of others. He does not set out to be a leader, but becomes one by the quality of his actions and the integrity of his intent. In the end, leaders are much like eagles... they don’t flock, you find them one at a time.’

“So, dear colleagues, General Logan has shown great leadership in maintaining Hawai‘i’s military presence as a force to be reckoned with in the Pacific. I ask for your support in reconfirming him to the status of Adjutant General of Hawai‘i for the State Department of Defense. Thank you.”

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

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

Senator Nishihara introduced Major General Arthur Logan, Adjutant General of the State of Hawai'i Department of Defense, who was seated in the gallery with his spouse.

The Chair stated:

"Before going on to the next item, Madam Clerk, I am sure I didn't quite hear it correctly, but I know that Senator Nishihara said that he was commanding the men **and** women of the National Guard, so make sure the Journal has that marked appropriately."

Stand. Com. Rep. No. 2219 (Gov. Msg. No. 600):

Senator Nishihara moved that Stand. Com. Rep. No. 2219 be received and placed on file, seconded by Senator Wakai and carried.

Senator Nishihara then moved that the Senate advise and consent to the nomination of KENNETH S. HARA as Deputy Adjutant General of the Department of Defense, term to expire at noon on December 5, 2022, seconded by Senator Wakai.

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

"Thank you, Mr. President, and thank you for the correction to include men **and** women in our armed forces. I rise in strong support of gubernatorial nominee Brigadier General Kenneth Hara as the deputy adjutant general of the Hawai'i State Department of Defense.

"Prior to General Hara's current assignment as the primary advisor to the adjutant general for the State of Hawai'i, he had been in charge of various units of the Army for almost 30 years, notably as a platoon leader, executive director, deputy commander, and commander in a variety of capacities. Most recently, he served as chief of the joint staff of Joint Force Headquarters, which provides command and control of all National Guard forces within the state for the governor, and provides situational awareness and resource requirements to Department of Defense authorities before and during operations, as in national level or contingency response efforts.

"Early in General Hara's military career, he held positions that have honed his skill set and broadened his repertoire. As an aviation section leader, he was not only in charge of training officers and enlisted men in matters pertaining to military aviation, he also supervised the operation of military aircraft. As a chemical officer, he defended against the specific threats of chemical, biological, radiological, and nuclear warfare, also known as *weapons of mass destruction*. A relatively new frontier of defense for our country, these officers lead an extraordinary unit advising the commander on issues regarding homeland protection. In 2005, General Hara deployed as the commander of the 2nd Battalion, 299th Infantry, to the north of the Persian Gulf—Baghdad, Iraq—in support of Operation Iraqi Freedom, a mission that President Bush authorized to rid Iraq of dictator Saddam Hussein and his weapons of mass destruction. In 2008, General Hara was deployed to the Arab country of Kuwait as the deputy commander of the 29th Infantry Brigade Combat Team, the largest unit in the Hawaii Army National Guard. Since 1995, the brigade has been one of the nation's 15 enhanced readiness brigades. This distinction means that the 29th Infantry Brigade must be trained and equipped to deploy within 90 days of a federal call-up. In 2012, General Hara deployed for a third time to southern Afghanistan to a city called Kandahar as a commander on the Security Forces Assistance Advisory Team. This office provides information daily to the Secretary of Homeland Security, senior leaders, and

the homeland security enterprise to enable decision-making and the continuity of primary mission functions in the event of a degraded or crisis operating environment.

"As international assignments have been a big part of General Hara's military career, he has also served on several local missions, notably as assistant operations officer following Hurricane Iniki, which devastated the island of Kaua'i on September 11, 1992. In 2006, as commander of the Task Force KOA, which was comprised of the Hawaii Army and Air National Guard soldiers, he led the National Guard operations in addressing an earthquake that struck the Big Island on October 15, 2006. And, last year, in support of the Kilauea volcanic eruption and Hurricane Lane natural disasters, he commandeered the joint task force in response operations.

"General Hara has earned 20 medals and badges that represent his feats of success, including the North Atlantic Treaty Organization Medal, which is awarded by the North Atlantic Treaty Organization, or NATO, an intergovernmental military alliance between 29 North American and European countries. General Hara is also the recipient of the Humanitarian Service Medal, which is awarded by the United States Department of Defense to any military personnel who distinguishes himself or herself by meritorious participation in specified military acts or operations of a humanitarian nature, as in cases of natural disaster relief and evacuation of non-combatants from a hostile area. In addition to General Hara's medals, he has a master's degree in strategic studies and a bachelor of arts degree in human services. His accolades include the 2001 Hawaii Army National Guard Outstanding Officer of the Year award as well as the 2011 Hawaii National Guard Field Grade Commander of the Year title.

"He truly epitomizes what it means to be a leader, a trait characterized by the quote from astronaut and former commander of the International Space Station, Chris Hadfield, which I quote: 'Ultimately, leadership is not about glorious crowning acts. It's about keeping your team focused on a goal and motivated to do their best to achieve it, especially when the stakes are high and the consequences really matter. It is about laying the groundwork for others' success, and then standing back and letting them shine.'

"So, colleagues, I urge you to continue your support of this decorated and highly qualified individual, and to reconfirm Brigadier General Kenneth Hara to his position as Deputy Adjutant General of the Hawai'i State Department of Defense. Thank you."

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

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

Senator Nishihara introduced Brigadier General Kenneth Hara, Deputy Adjutant General of the State of Hawai'i Department of Defense, who was seated in the gallery with his wife.

Stand. Com. Rep. No. 2220 (Gov. Msg. Nos. 620 and 621):

Senator Kahele moved that Stand. Com. Rep. No. 2220 be received and placed on file, seconded by Senator Keith-Agaran and carried.

Senator Kahele then moved that the Senate advise and consent to the nominations to the Game Management Advisory Commission of the following:

NELSON RAPANOT, term to expire June 30, 2023 (Gov. Msg. No. 620); and

KALANI NAKOA, term to expire June 30, 2020 (Gov. Msg. No. 621),

seconded by Senator Keith-Agaran.

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

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

At 11:58 a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:59 a.m.

ADOPTION OF A RESOLUTION

MATTER DEFERRED FROM MONDAY, APRIL 22, 2019

Stand. Com. Rep. No. 2221 (S.R. No. 120):

On motion by Senator Kahele, seconded by Senator English and carried, the report of the Committee was adopted and S.R. No. 120, entitled: "SENATE RESOLUTION REQUESTING THE UNIVERSITY OF HAWAII OFFICE OF INTERNAL AUDIT TO CONDUCT AN AUDIT OF VARIOUS PROGRAMS AT THE UNIVERSITY OF HAWAII WEST OAHU THAT RECEIVE EXTRAMURAL FUNDING, INCLUDING TITLE III GRANT FUNDING," was adopted.

APPOINTMENT AND DISCHARGE OF CONFEREES

S.B. No. 485, S.D. 1 (H.D. 1):

In accordance with the disagreement of the Senate to the amendments proposed by the House to S.B. No. 485, S.D. 1, and the request for a conference on the subject matter thereof, the President appointed Senators Gabbard, chair; Keith-Agaran, co-chair; Fevella as manager on the part of the Senate at such conference.

S.B. No. 641 (H.D. 2):

In accordance with the disagreement of the Senate to the amendments proposed by the House to S.B. No. 641, and the request for a conference on the subject matter thereof, the President appointed Senators Inouye, chair; Rhoads, co-chair; Gabbard, Harimoto, Fevella as managers on the part of the Senate at such conference.

S.B. No. 753, S.D. 2 (H.D. 1):

In accordance with the disagreement of the Senate to the amendments proposed by the House to S.B. No. 753, S.D. 2, and the request for a conference on the subject matter thereof, the President appointed Senators Gabbard, chair; Kahele, co-chair; Fevella as manager on the part of the Senate at such conference.

S.B. No. 759, S.D. 2 (H.D. 1):

In accordance with the disagreement of the Senate to the amendments proposed by the House to S.B. No. 759, S.D. 2, and the request for a conference on the subject matter thereof, the President appointed Senators Gabbard, chair; Rhoads, Kanuha, co-chairs; Fevella as manager on the part of the Senate at such conference.

S.B. No. 763, S.D. 2 (H.D. 1):

In accordance with the disagreement of the Senate to the amendments proposed by the House to S.B. No. 763, S.D. 2, and the request for a conference on the subject matter thereof, the President appointed Senators Wakai, chair; Gabbard, Riviere, co-chairs; Fevella as manager on the part of the Senate at such conference.

S.B. No. 1041, S.D. 2 (H.D. 2):

In accordance with the disagreement of the Senate to the amendments proposed by the House to S.B. No. 1041, S.D. 2,

and the request for a conference on the subject matter thereof, the President appointed Senators Taniguchi, chair; Rhoads, co-chair; Fevella as manager on the part of the Senate at such conference.

S.B. No. 1048, S.D. 1 (H.D. 1):

In accordance with the disagreement of the Senate to the amendments proposed by the House to S.B. No. 1048, S.D. 1, and the request for a conference on the subject matter thereof, the President appointed Senators Taniguchi, chair; Rhoads, co-chair; Fevella as manager on the part of the Senate at such conference.

S.B. No. 1227 (H.D. 1):

In accordance with the disagreement of the Senate to the amendments proposed by the House to S.B. No. 1227, and the request for a conference on the subject matter thereof, the President appointed Senators Ruderman, chair; Riviere, co-chair; Ihara, Moriwaki, Fevella as managers on the part of the Senate at such conference.

S.B. No. 1230, S.D. 2 (H.D. 1):

In accordance with the disagreement of the Senate to the amendments proposed by the House to S.B. No. 1230, S.D. 2, and the request for a conference on the subject matter thereof, the President appointed Senators Ruderman, chair; Riviere, co-chair; Ihara, Thielen, Fevella as managers on the part of the Senate at such conference.

S.B. No. 1394, S.D. 2 (H.D. 2):

In accordance with the disagreement of the Senate to the amendments proposed by the House to S.B. No. 1394, S.D. 2, and the request for a conference on the subject matter thereof, the President appointed Senators Taniguchi, chair; Moriwaki, co-chair; Fevella as manager on the part of the Senate at such conference.

S.B. No. 1475, S.D. 1 (H.D. 1):

In accordance with the disagreement of the Senate to the amendments proposed by the House to S.B. No. 1475, S.D. 1, and the request for a conference on the subject matter thereof, the President appointed Senators Taniguchi, chair; Inouye, co-chair; Chang, Fevella as managers on the part of the Senate at such conference.

S.B. No. 1530, S.D. 3 (H.D. 2):

In accordance with the disagreement of the Senate to the amendments proposed by the House to S.B. No. 1530, S.D. 3, and the request for a conference on the subject matter thereof, the President appointed Senators Wakai, chair; Dela Cruz, Keith-Agaran, co-chairs; Fevella as manager on the part of the Senate at such conference.

S.B. No. 1539, S.D. 1 (H.D. 1):

In accordance with the disagreement of the Senate to the amendments proposed by the House to S.B. No. 1539, S.D. 1, and the request for a conference on the subject matter thereof, the President appointed Senators Nishihara, chair; Rhoads, co-chair; Fevella as manager on the part of the Senate at such conference.

H.B. No. 34, 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. 34, H.D. 1, and the request for a conference on the subject matter thereof, the President appointed Senators Taniguchi, chair; Keith-Agaran, co-chair; Ihara as manager on the part of the Senate at such conference.

H.B. No. 159, 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. 159, H.D. 1, and the request for a conference on the subject matter thereof, the President appointed Senators Nishihara, chair; Rhoads, co-chair; Fevella as manager on the part of the Senate at such conference.

H.B. No. 267, 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. 267, H.D. 1, and the request for a conference on the subject matter thereof, the President appointed Senators Baker, chair; Nishihara, Fevella as managers on the part of the Senate at such conference.

H.B. No. 295, 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. 295, H.D. 1, and the request for a conference on the subject matter thereof, the President appointed Senators Rhoads, chair; Kim, Fevella as managers on the part of the Senate at such conference.

H.B. No. 318, 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. 318, H.D. 1, and the request for a conference on the subject matter thereof, the President appointed Senators Kidani, chair; Kanuha, co-chair; Fevella as manager on the part of the Senate at such conference.

H.B. No. 507, 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. 507, H.D. 1, and the request for a conference on the subject matter thereof, the President appointed Senators Rhoads, chair; Kim, Fevella as managers on the part of the Senate at such conference.

H.B. No. 529, 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. 529, H.D. 1, and the request for a conference on the subject matter thereof, the President appointed Senators Inouye, chair; Kahele, co-chair; English, Shimabukuro, Fevella as managers on the part of the Senate at such conference.

H.B. No. 627, 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. 627, H.D. 1, and the request for a conference on the subject matter thereof, the President appointed Senators Rhoads, chair; Riviere, co-chair; Fevella as manager on the part of the Senate at such conference.

The President discharged all conferees 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. 627, H.D. 1.

H.B. No. 710, 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. 710, H.D. 1, and the request for a conference on the subject matter thereof, the President appointed Senators Taniguchi, chair; Rhoads, Keith-Agaran, co-chairs; Fevella as manager on the part of the Senate at such conference.

H.B. No. 747, 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. 747, H.D. 1,

and the request for a conference on the subject matter thereof, the President appointed Senators Ruderman, chair; Riviere, co-chair; Moriwaki, Thielen, Fevella as managers on the part of the Senate at such conference.

H.B. No. 748, H.D. 2 (S.D. 2):

In accordance with the disagreement of the House to the amendments proposed by the Senate to H.B. No. 748, H.D. 2, and the request for a conference on the subject matter thereof, the President appointed Senators Rhoads, chair; Riviere, co-chair; Fevella as manager on the part of the Senate at such conference.

H.B. No. 756, 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. 756, H.D. 1, and the request for a conference on the subject matter thereof, the President appointed Senators Inouye, chair; Rhoads, co-chair; Harimoto, Wakai, Fevella as managers on the part of the Senate at such conference.

H.B. No. 807, 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. 807, H.D. 1, and the request for a conference on the subject matter thereof, the President appointed Senators Rhoads, chair; Gabbard, Fevella as managers on the part of the Senate at such conference.

H.B. No. 941, 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. 941, H.D. 1, and the request for a conference on the subject matter thereof, the President appointed Senators Taniguchi, chair; Rhoads, co-chair; Fevella as manager on the part of the Senate at such conference.

H.B. No. 1193 (S.D. 1):

In accordance with the disagreement of the House to the amendments proposed by the Senate to H.B. No. 1193, and the request for a conference on the subject matter thereof, the President appointed Senators Dela Cruz, chair; Keith-Agaran, co-chair; Fevella as manager on the part of the Senate at such conference.

H.B. No. 1261, 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. 1261, H.D. 1, and the request for a conference on the subject matter thereof, the President appointed Senators Rhoads, chair; Keith-Agaran, co-chair; Fevella as manager on the part of the Senate at such conference.

H.B. No. 1305, H.D. 2 (S.D. 1):

In accordance with the disagreement of the House to the amendments proposed by the Senate to H.B. No. 1305, H.D. 2, and the request for a conference on the subject matter thereof, the President appointed Senators Nishihara, chair; Baker, co-chair; Fevella as manager on the part of the Senate at such conference.

H.B. No. 1455, H.D. 2 (S.D. 1):

The President discharged all conferees 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. 1455, H.D. 2.

H.B. No. 1485, H.D. 2 (S.D. 1):

In accordance with the disagreement of the House to the amendments proposed by the Senate to H.B. No. 1485, H.D. 2,

and the request for a conference on the subject matter thereof, the President appointed Senators Kidani, chair; Rhoads, co-chair; Kanuha, Fevella as managers on the part of the Senate at such conference.

H.B. No. 1547, H.D. 2 (S.D. 3):

The President discharged all conferees 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. 1547, H.D. 2.

ADJOURNMENT

At 12:00 p.m., on motion by Senator Kahele, seconded by Senator English and carried, the Senate adjourned until 11:30 a.m., Wednesday, April 24, 2019.