

THIRTY-FIFTH DAY

Tuesday, March 21, 2023

The Senate of the Thirty-Second Legislature of the State of Hawai'i, Regular Session of 2023, convened at 11:39 a.m. with the President in the Chair.

The Roll was called showing all Senators present.

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

At this time, Senator Keohokalole introduced members of the Kāne'ohe and Kahalu'u community who had joined his office on a field trip to the Capitol. Seated in the gallery were Stephen and Ruth Canham; Mike Cadang, who was accompanied by his daughter, Tate, a staff member of Senate President's office; Randy Kennedy; Jane and Rod Martin; Barbara Nall; Jerald and Betsy Takesono; Linda and Jason Elento; Tiare Kaolelopono and Taimane Matua; Richard Burson; CharlAnn Nakamoto; Charles Naumu; Ahtooanya Jones; and Shelly and Lillie Geiter.

Senator Kanuha introduced Erika Moritsugu, who had been appointed by President Joe Biden in April 2021 to serve as deputy assistant to the President and Asian American and Native Hawaiian and Pacific Islander senior liaison, who was present in the gallery. Senator Kanuha then introduced Georgette Furukawa, an advisor for the Asian American and Native Hawaiian and Pacific Islander office for the White House chief of staff as well as director of public engagement for the Permitting Council, who was also seated in the gallery.

Senator McKelvey introduced guests from Maui who were attending Manufacturing Day at the Capitol. Present in the gallery were Kelly King, former Maui County councilmember and president of Pacific Biodiesel, and her attorney and chief counsel, James Forrest.

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 621 to 629) were read by the Clerk and were disposed of as follows:

Gov. Msg. No. 621, submitting for consideration and confirmation to the State Board of Nursing, the nomination of CARRIE OLIVEIRA, term to expire June 30, 2027, was referred to the Committee on Commerce and Consumer Protection.

Gov. Msg. No. 622, submitting for consideration and confirmation to the Contractors License Board, the nomination of PAUL ALEJADO, term to expire June 30, 2027, was referred to the Committee on Commerce and Consumer Protection.

Gov. Msg. No. 623, submitting for consideration and confirmation to the Contractors License Board, the nomination of ERIC HIGASHIHARA, term to expire June 30, 2027, was referred to the Committee on Commerce and Consumer Protection.

Gov. Msg. No. 624, submitting for consideration and confirmation to the Motor Vehicle Industry Licensing Board, the nomination of JOHN CAUDELL, JR., term to expire June 30, 2027, was referred to the Committee on Commerce and Consumer Protection.

Gov. Msg. No. 625, submitting for consideration and confirmation to the Board of Psychology, the nomination of JILL OLIVEIRA CABBAB, term to expire June 30, 2027, was referred to the Committee on Commerce and Consumer Protection.

Gov. Msg. No. 626, submitting for consideration and confirmation to the Pest Control Board, the nomination of JONATHAN MONTALBO, term to expire June 30, 2027, was referred to the Committee on Commerce and Consumer Protection.

Gov. Msg. No. 627, submitting for consideration and confirmation to the Board of Professional Engineers, Architects, Surveyors and Landscape Architects, the nomination of HOWARD LAU, term to expire June 30, 2026, was referred to the Committee on Commerce and Consumer Protection.

Gov. Msg. No. 628, submitting for consideration and confirmation to the State Council on Mental Health, the nomination of JEFFREY GALON, JR., term to expire June 30, 2024, was referred to the Committee on Health and Human Services.

Gov. Msg. No. 629, submitting for consideration and confirmation to the State Council on Mental Health, the nomination of MARY WATERHOUSE, term to expire June 30, 2024, was referred to the Committee on Health and Human Services.

STANDING COMMITTEE REPORTS

Senator Shimabukuro, for the Committee on Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 1206) recommending that H.B. No. 1508, H.D. 1, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Wakai, seconded by Senator DeCoite and carried, the report of the Committee was adopted and H.B. No. 1508, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO NATIVE HAWAIIAN AFFAIRS," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Shimabukuro, for the Committee on Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 1207) recommending that H.B. No. 37, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Wakai, seconded by Senator DeCoite and carried, the report of the Committee was adopted and H.B. No. 37, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO NON-GENERAL FUNDS," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Shimabukuro, for the Committee on Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 1208) recommending that H.B. No. 1058, H.D. 1 pass Second Reading and be referred to the Committee on Judiciary.

On motion by Senator Wakai, seconded by Senator DeCoite and carried, the report of the Committee was adopted and H.B. No. 1058, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ADOPTION," passed Second Reading and was referred to the Committee on Judiciary.

Senator Wakai, for the majority of the Committee on Public Safety and Intergovernmental and Military Affairs, presented a report (Stand. Com. Rep. No. 1209) recommending that H.B. No. 426, H.D. 1 pass Second Reading and be referred to the Committee on Judiciary.

On motion by Senator Wakai, seconded by Senator DeCoite and carried, the report of the majority of the Committee was adopted and H.B. No. 426, H.D. 1, entitled: "A BILL FOR AN

ACT RELATING TO FIREARMS," passed Second Reading and was referred to the Committee on Judiciary.

Senator Inouye, for the Committee on Water and Land, presented a report (Stand. Com. Rep. No. 1210) recommending that H.B. No. 1371, H.D. 1 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Wakai, seconded by Senator DeCoite and carried, the report of the Committee was adopted and H.B. No. 1371, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE SAND ISLAND STATE RECREATION AREA," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Inouye, for the Committee on Water and Land, presented a report (Stand. Com. Rep. No. 1211) recommending that H.B. No. 1134, H.D. 2 pass Second Reading and be referred to the Committee on Commerce and Consumer Protection and the Committee on Ways and Means.

On motion by Senator Wakai, seconded by Senator DeCoite and carried, the report of the Committee was adopted and H.B. No. 1134, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO KANEOHE BAY," passed Second Reading and was referred to the Committee on Commerce and Consumer Protection and the Committee on Ways and Means.

Senator Inouye, for the Committee on Water and Land, presented a report (Stand. Com. Rep. No. 1212) recommending that H.B. No. 1088, H.D. 1 pass Second Reading and be referred to the Committee on Judiciary.

On motion by Senator Wakai, seconded by Senator DeCoite and carried, the report of the Committee was adopted and H.B. No. 1088, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DECLARATION OF WATER SHORTAGE AND EMERGENCY," passed Second Reading and was referred to the Committee on Judiciary.

Senator Inouye, for the Committee on Water and Land, presented a report (Stand. Com. Rep. No. 1213) recommending that H.B. No. 361, H.D. 1 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Wakai, seconded by Senator DeCoite and carried, the report of the Committee was adopted and H.B. No. 361, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE GREEN JOBS YOUTH CORPS," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Inouye, for the Committee on Water and Land, presented a report (Stand. Com. Rep. No. 1214) recommending that H.B. No. 953, H.D. 1 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Wakai, seconded by Senator DeCoite and carried, the report of the Committee was adopted and H.B. No. 953, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF LAND AND NATURAL RESOURCES," passed Second Reading and was referred to the Committee on Ways and Means.

Senator DeCoite, for the Committee on Energy, Economic Development, and Tourism, presented a report (Stand. Com. Rep. No. 1215) recommending that H.B. No. 852, H.D. 1 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Wakai, seconded by Senator DeCoite and carried, the report of the Committee was adopted and H.B. No. 852, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO STATE ENTERPRISE ZONES," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Inouye, for the Committee on Water and Land, presented a report (Stand. Com. Rep. No. 1216) recommending that H.B. No. 670, H.D. 2, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary and the Committee on Ways and Means.

On motion by Senator Wakai, seconded by Senator DeCoite and carried, the report of the Committee was adopted and H.B. No. 670, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE LAND USE COMMISSION," passed Second Reading and was referred to the Committee on Judiciary and the Committee on Ways and Means.

Senator Inouye, for the Committee on Water and Land, presented a report (Stand. Com. Rep. No. 1217) recommending that H.B. No. 908, H.D. 2, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Wakai, seconded by Senator DeCoite and carried, the report of the Committee was adopted and H.B. No. 908, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE LAND CONSERVATION FUND," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Inouye, for the Committee on Water and Land, presented a report (Stand. Com. Rep. No. 1218) recommending that H.B. No. 994, H.D. 1, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Wakai, seconded by Senator DeCoite and carried, the report of the Committee was adopted and H.B. No. 994, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LAND USE," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Inouye, for the Committee on Water and Land, presented a report (Stand. Com. Rep. No. 1219) recommending that H.B. No. 1079, H.D. 2, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary and the Committee on Ways and Means.

On motion by Senator Wakai, seconded by Senator DeCoite and carried, the report of the Committee was adopted and H.B. No. 1079, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO WATER POLLUTION CONTROL," passed Second Reading and was referred to the Committee on Judiciary and the Committee on Ways and Means.

Senator Inouye, for the Committee on Water and Land, presented a report (Stand. Com. Rep. No. 1220) recommending that H.B. No. 1090, H.D. 1, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Judiciary and the Committee on Ways and Means.

On motion by Senator Wakai, seconded by Senator DeCoite and carried, the report of the Committee was adopted and H.B. No. 1090, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO OCEAN RECREATION COMMERCIAL PERMITS," passed Second Reading and was referred to the Committee on Judiciary and the Committee on Ways and Means.

Senator Inouye, for the Committee on Water and Land, presented a report (Stand. Com. Rep. No. 1221) recommending that H.B. No. 1091, H.D. 2, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Commerce and Consumer Protection.

On motion by Senator Wakai, seconded by Senator DeCoite and carried, the report of the Committee was adopted and H.B. No. 1091, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO REAL PROPERTY DISCLOSURES WITHIN SHORELINE AREAS," passed Second Reading and was

referred to the Committee on Commerce and Consumer Protection.

Senator Inouye, for the Committee on Water and Land, presented a report (Stand. Com. Rep. No. 1222) recommending that H.B. No. 1183, H.D. 1, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Wakai, seconded by Senator DeCoite and carried, the report of the Committee was adopted and H.B. No. 1183, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO STATE PARKS," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Inouye, for the Committee on Water and Land, presented a report (Stand. Com. Rep. No. 1223) recommending that H.B. No. 1200, H.D. 1, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means and the Committee on Judiciary.

On motion by Senator Wakai, seconded by Senator DeCoite and carried, the report of the Committee was adopted and H.B. No. 1200, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE CONSERVATION AND RESOURCES ENFORCEMENT PROGRAM," passed Second Reading and was referred to the Committee on Ways and Means and the Committee on Judiciary.

Senator Inouye, for the majority of the Committee on Water and Land, presented a report (Stand. Com. Rep. No. 1224) recommending that H.B. No. 1385, H.D. 2, as amended in S.D. 1, pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Wakai, seconded by Senator DeCoite and carried, the report of the majority of the Committee was adopted and H.B. No. 1385, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LANDS," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Inouye, for the majority of the Committee on Water and Land, presented a report (Stand. Com. Rep. No. 1225) recommending that the Senate advise and consent to the nomination of SCOTT GLENN as Director of the Office of Planning and Sustainable Development, in accordance with Gov. Msg. No. 506.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1225 and Gov. Msg. No. 506 was deferred until Wednesday, March 22, 2023.

ORDER OF THE DAY

STANDING COMMITTEE REPORTS

MATTERS DEFERRED FROM MONDAY, MARCH 20, 2023

Senator Gabbard, for the Committee on Agriculture and Environment, presented a report (Stand. Com. Rep. No. 1195) recommending that H.B. No. 1149, H.D. 2 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Wakai, seconded by Senator DeCoite and carried, the report of the Committee was adopted and H.B. No. 1149, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE COCONUT RHINOCEROS BEETLE PROGRAM," passed Second Reading and was referred to the Committee on Ways and Means.

Senator Gabbard, for the Committee on Agriculture and Environment, presented a report (Stand. Com. Rep. No. 1196) recommending that H.B. No. 1248, H.D. 1 pass Second Reading and be referred to the Committee on Ways and Means.

On motion by Senator Wakai, seconded by Senator DeCoite and carried, the report of the Committee was adopted and H.B. No. 1248, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM INCENTIVES," passed Second Reading and was referred to the Committee on Ways and Means.

THIRD READING

H.B. No. 90:

Senator Rhoads moved that H.B. No. 90, having been read throughout, pass Third Reading, seconded by Senator Gabbard.

Senator San Buenaventura rose to speak in support of the measure with reservations as follows:

"I stand in support with reservations: in support because it promotes transparency, reservations because, with the removal of the \$25 limit, it actually appears that we are targeting grassroots fundraising, which I think we should really be promoting. And, secondly, based upon the testimony of the Campaign Spending Commission, this doesn't actually solve the problem that they want to solve, and for those reasons, I stand with reservations. Thank you."

The motion was put by the Chair and carried, H.B. No. 90, entitled: "A BILL FOR AN ACT RELATING TO COMMITTEE FUNDRAISERS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25; Ayes with Reservations (San Buenaventura). Noes, none.

H.B. No. 93:

On motion by Senator Rhoads, seconded by Senator Gabbard and carried, H.B. No. 93, entitled: "A BILL FOR AN ACT RELATING TO ORGANIZATIONAL REPORTS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

RE-REFERRAL OF SENATE CONCURRENT RESOLUTIONS

The Chair re-referred the following Senate concurrent resolutions that were offered:

- S.C.R. No.: Re-referred to:
- S.C.R. No. 52 Committee on Water and Land
- S.C.R. No. 116 Committee on Water and Land
- S.C.R. No. 134 Committee on Labor and Technology
- S.C.R. No. 199 Committee on Health and Human Services
- S.C.R. No. 209 Committee on Health and Human Services
- S.C.R. No. 224 Committee on Water and Land

RE-REFERRAL OF SENATE RESOLUTIONS

The Chair re-referred the following Senate resolutions that were offered:

- S.R. No.: Re-referred to:
- S.R. No. 47 Committee on Water and Land
- S.R. No. 98 Committee on Health and Human Services
- S.R. No. 108 Committee on Water and Land
- S.R. No. 149 Committee on Health and Human Services

S.R. No. 162 Committee on Water and Land

At this time, Senator Lee, Chair of the Committee on Transportation and Culture and the Arts, requested a waiver of the public notice requirement pursuant to Senate Rule 21 for H.B. No. 110, H.D. 1.

Senator Lee noted:

“There have been a few developments late in the process we’d like to consider but also want to make sure the public has an opportunity to comment and provide testimony.”

The Chair granted the waiver.

Senator Lee announced that the Committee on Transportation and Culture and the Arts would be holding a public hearing on the measure on Thursday, March 23, 2023, at 3:00 p.m. in Conference Room 224.

Senator DeCoite encouraged the members to check out Manufacturing Day, which was taking place on the fourth floor of the Capitol until 1:00 p.m.

The Chair remarked that Kauai Kookies were among the items featured on the Manufacturing Day tables.

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

“Governor continues to criticize and condemn my colleagues and I for doing our jobs and our constitutional duties. To quote you, Senate President, last Tuesday, you said you were troubled when the governor said we should just give him a chance and let everyone that he nominates be confirmed just because. I agree with you, Mr. President. If that were the case, the law would simply be written that the governor appoints who he wants to have on his team. But the law instead says that the Senate has a duty and responsibility to advise and consent. It is the responsibility that everyone in this chamber takes very seriously. Thank you, Senate President.”

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

“I should be getting a royalty for the amount of times *Civil Beat* insists on featuring me in their mostly interesting but fictional stories. I get it—like the senator from Ka’a’awa mentioned in his moment of contemplation, there are heroes and villains. That storyline sells. But, really, what we should be after are the facts and the truth. I don’t get the fact that the Senate is in chaos, and if that’s a member’s reality, well, bills are moving, committees are meeting, the budget is getting crafted. Those who feel that there is chaos should probably get more organized and focus on their work instead of the hype.

“Going back to the facts and the truth, the truth is, several of us had voiced concerns about a nomination that was referred to the Water and Land committee. Fact one: Concerns are based on past performance, lack of outcomes, and issues brought up by current staff overseen by the nominee. Fact two: In a leadership meeting, when these concerns were being discussed, the subject-matter chair did not dispute them. The subject-matter chair’s response was to ‘vote your conscience.’ Other colleagues also had mentioned that they had been approached by Office of Planning staff with concerns.

“When people get frustrated, they start calling others names, creating the narrative of heroes, villains, and bullies. We need to stick to the facts and focus on the people’s work, solve our state’s most challenging problems. We have a responsibility to vote and vet the nominees. As a member of the COVID committee, I saw firsthand many instances where the administration froze, were not up to the challenge, and responded slowly. We have to do our job. We have to feel

confident that these nominees are up to the challenge. Thank you, Mr. President.”

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

“Mr. President, I think it should be made known to the public that, as a member of this body, we are all entitled to sit in on any committee. That is the only time that a member has the opportunity to ask questions because if you wait till we get to the floor, we cannot ask the nominee questions or ask about a bill. So to be chastised, as I was by the governor, that I went into a committee that I was not a member, we have every right to do that. And I invite any member to sit in on my committee—if you have questions, you are so welcome to come in—and I’ve always had that opportunity, and I know many of you have invited me to sit in your committees. And so I think we should go on the record to let the public know that that is our right. We may not vote in those committees, but we have every right to be in the committee, to know what’s going on. Otherwise, how can you vote on this floor if you’re not part of the discussion? And that is what we also get criticized for: that we make our decisions before we even hear what the public has to say. So I think that we should go on record and that should be well known to everyone. Thank you.”

The Chair emphasized that any member could attend another committee meeting. The Chair requested that any member planning to attend a meeting of a committee the member was not part of to notify the committee chair of the member’s intent, which would ensure that proper arrangements, including a seat at the table, nameplate, and microphone, would be made for the member’s effective participation.

The Chair then announced that there would be a leadership meeting in his office immediately following adjournment.

The Chair invited Ms. Moritsugu and Ms. Furukawa to the floor for picture-taking following adjournment. The Chair noted that Ms. Moritsugu’s father, former acting U.S. surgeon general, and Norman Mineta, former Transportation secretary, had been two Asian Americans who had broken through the glass ceiling in holding those federal government positions.

ADJOURNMENT

At 11:54 a.m., on motion by Senator Wakai, seconded by Senator DeCoite and carried, the Senate adjourned until 11:30 a.m., Wednesday, March 22, 2023.