

FIFTY-SECOND DAY

Thursday, April 19, 2001

The Senate of the Twenty-First Legislature of the State of Hawaii, Regular Session of 2001, convened at 11:44 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by Pastor John Vierra, Kaimuki Evangelical Church, after which the Roll was called showing all Senators present with the exception of Senator Ige who was excused.

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

Senator Slom introduced four-year-old Evan Nagao, Hawaii's youngest yo-yo champion, and commended him on his appearance on the "Tonight Show with Jay Leno" and for his many accomplishments. Accompanying Evan were his parents, Alan and Priscilla Nagao, and his brother, Aiden.

At this time, Evan demonstrated his award-winning yo-yo talents for the members of the Senate and their guests.

At 11:56 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:07 o'clock p.m.

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 601 to 603) were read by the Clerk and were disposed of as follows:

Hse. Com. No. 601, returning S.C.R. No. 4, S.D. 1, which was adopted in the House of Representatives on April 18, 2001, in an amended form, was placed on file.

On motion by Senator English, seconded by Senator Hemmings and carried, the Senate disagreed to the amendments proposed by the House to S.C.R. No. 4, S.D. 1, and requested a conference on the subject matter thereof.

Hse. Com. No. 602, informing the Senate that the Speaker on April 18, 2001, made the following changes to the conferees on the following bills:

H.B. No. 160, H.D. 1 (S.D. 1):

Discharged Representative Hamakawa as first co-chair.
Appointed Representative B. Oshiro as first co-chair.

H.B. No. 223, H.D. 1 (S.D. 2):

Discharged Representative Case as a manager.
Appointed Representative Chang as a manager.

H.B. No. 978, H.D. 1 (S.D. 1):

Discharged Representative Hamakawa as chair and Representative B. Oshiro as a manager.
Appointed Representative Hamakawa as a manager and Representative B. Oshiro as chair.

H.B. No. 1405, H.D. 1 (S.D. 1):

Discharged Representative Hamakawa as chair and Representative B. Oshiro as a manager.

Appointed Representative Hamakawa as a manager and Representative B. Oshiro as chair.

S.B. No. 1081 (H.D. 1):

Discharged Representative Leong as a manager.
Appointed Representative Halford as a manager,

was placed on file.

Hse. Com. No. 603, informing the Senate that the Speaker on April 19, 2001, made the following changes to the conferees on the following bill:

H.B. No. 1256, H.D. 2 (S.D. 2):

Discharged Representative Saiki as third co-chair.
Appointed Representative Nakasone as third co-chair,

was placed on file.

STANDING COMMITTEE REPORTS

Senator Kanno, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1671) recommending that the Senate advise and consent to the nomination of RONALD T. HAJIME as Compact Administrator, State Council for Interstate Adult Offender Supervision, in accordance with Gov. Msg. No. 153.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 1671 and Gov. Msg. No. 153 was deferred until Friday, April 20, 2001.

Senator Kanno, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1672) recommending that the Senate advise and consent to the nominations of FAYE KENNEDY and HARRY YEE to the Civil Rights Commission, in accordance with Gov. Msg. No. 179.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 1672 and Gov. Msg. No. 179 was deferred until Friday, April 20, 2001.

Senator Kanno, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1673) recommending that the Senate advise and consent to the nomination of LES S. IHARA to the Crime Victim Compensation Commission, in accordance with Gov. Msg. No. 180.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 1673 and Gov. Msg. No. 180 was deferred until Friday, April 20, 2001.

Senator Kanno, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1674) recommending that the Senate advise and consent to the nominations of FRANCIS L. BENEVIDES SR. and NEWTON INOUYE to the Board of Registration, Island of Hawai'i, in accordance with Gov. Msg. No. 236.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 1674 and Gov. Msg. No. 236 was deferred until Friday, April 20, 2001.

Senator Kanno, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1675) recommending that the Senate advise and consent to the nomination of LANI LIU

EWART to the Commission to Promote Uniform Legislation, in accordance with Gov. Msg. No. 241.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 1675 and Gov. Msg. No. 241 was deferred until Friday, April 20, 2001.

Senator Kanno, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1676) recommending that the Senate advise and consent to the nomination of STEVEN S. ALM to the office of Judge, 2nd Division, Circuit Court of the First Circuit, in accordance with the provisions of Article VI, Section 3, of the Hawaii State Constitution, and in accordance with Gov. Msg. No. 216.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 1676 and Gov. Msg. No. 216 was deferred until Friday, April 20, 2001.

ORDER OF THE DAY

ADOPTION OF RESOLUTIONS

MATTERS DEFERRED FROM WEDNESDAY, APRIL 18, 2001

Stand. Com. Rep. No. 1667 (S.R. No. 41, S.D. 1):

On motion by Senator English, seconded by Senator Hemmings and carried, the report of the Committee was adopted and S.R. No. 41, S.D. 1, entitled: "SENATE RESOLUTION REQUESTING THE DEVELOPMENT OF A COMPREHENSIVE MASTER PLAN FOR STATE PARKS," was adopted.

Stand. Com. Rep. No. 1668 (S.R. No. 44, S.D. 1):

On motion by Senator English, seconded by Senator Hemmings and carried, the report of the Committee was adopted and S.R. No. 44, S.D. 1, entitled: "SENATE RESOLUTION REQUESTING A STUDY RELATING TO THE MANAGEMENT OF THE AHUPUA'A 'O KAHANA," was adopted.

ADVISE AND CONSENT

Stand. Com. Rep. No. 1669 (Gov. Msg. No. 233):

Senator Nakata moved that Stand. Com. Rep. No. 1669 be received and placed on file, seconded by Senator Ihara and carried.

Senator Nakata then moved that the Senate advise and consent to the nomination of COLBERT M. MATSUMOTO to the Board of Trustees, Employees' Retirement System, term to expire January 1, 2007, seconded by Senator Ihara.

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

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

Stand. Com. Rep. No. 1670 (Gov. Msg. No. 250):

Senator Nakata moved that Stand. Com. Rep. No. 1670 be received and placed on file, seconded by Senator Ihara and carried.

Senator Nakata then moved that the Senate advise and consent to the nomination of HOWENA HUI BLUME to the

Board of Trustees, Hawai'i Public Employees Health Fund, term to expire June 30, 2005, seconded by Senator Ihara.

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

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

Senator Inouye, Chair of the Committee on Water, Land, Energy, and Environment, requested a waiver of the notice requirement pursuant to Senate Rule 20 for H.B. No. 1118, and the Chair granted the waiver.

Senator Tam, Chair of the Committee on Economic Development and Technology, requested a waiver of the notice requirement pursuant to Senate Rule 20 for the following resolutions:

H.C.R. No. 57;
H.C.R. No. 88;
H.C.R. No. 93;
H.C.R. No. 115; and
H.C.R. No. 182,

and the Chair granted the waiver.

RECONSIDERATION OF ACTION TAKEN

S.B. No. 1104, S.D. 1 (H.D. 1):

Senator Matsuura moved that the Senate reconsider its action taken on April 4, 2001, in disagreeing to the amendments proposed by the House to S.B. No. 1104, S.D. 1, seconded by Senator Kanno and carried.

Senator Matsuura moved that the Senate agree to the amendments proposed by the House to S.B. No. 1104, S.D. 1, seconded by Senator Kanno.

Senator Matsuura then noted:

"Mr. President, this measure relates to the foster parents to provide consent for foster children's educational/recreational needs. Both parties were in agreement."

At 12:11 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:14 o'clock p.m.

Senator Ihara rose and said:

"Mr. President, I'd like to ask what we're agreeing to when we make this vote."

The President responded:

"We are reconsidering previous action in disagreeing to the amendments made by the House to S.B. No. 1104, S.D. 1."

Senator Ihara continued:

"I understand that we're also voting to agree to certain unknown amendments, so I'd like to find out what those amendments are."

At 12:15 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:16 o'clock p.m.

Senator Matsuura then rose and said:

“Mr. President, according to this measure, the changes are technical and nonsubstantive.”

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 1104, S.D. 1, and S.B. No. 1104, S.D. 1, H.D. 1, entitled: “A BILL FOR AN ACT RELATING TO AUTHORITY OF FOSTER PARENTS TO PROVIDE CONSENTS FOR THE FOSTER CHILD’S EDUCATIONAL AND RECREATIONAL NEEDS,” was placed on the calendar for Final Reading on Friday, April 20, 2001.

Senator Hemmings rose on a point of personal privilege as follows:

“Mr. President, I rise on a point of personal privilege.

“It was earlier in the Session that I stood on this Floor and called for the resignation of a union leader that was on the Judicial Selection Commission, and that union leader, much to his credit, did the honorable thing. Well I think it’s time to call for the resignation of another union leader and that’s the leader of the HSTA. Over the last week this State is in a state of crisis because of the educational strike.

“Union rank and file have done a really wonderful job of coming to our offices in pleading their case for their position regarding this issue and I think the Senate is ready to respond in kind with adequate funding of their request, but there’s tremendous hypocrisy in union leadership. In the last election, union leadership chose to ignore the express wishes of rank and file, according to their representatives that have been to my office, who wanted to endorse another candidate, and union leadership endorsed the status quo. I find it quite hypocritical at this point for that same leadership to be at the bargaining table allegedly as an adversary of the person who they overrode rank and file’s vote for to endorse. This is the type of duplicity and partisanship that has led this State to this condition we’re in today.

“So I would think the honorable thing for Karen Ginoza to do is to walk away from the bargaining table and let others in a leadership position in the union assume the role of leadership and hopefully the union will do what’s best for the students, for the rank and file, and for the people of Hawaii, not one political interest. Therefore, Mr. President, I hope this will seriously be considered and I think it would go a long way in bringing back credibility to union leadership. I think the rank and file, quite frankly, have been betrayed in ’98 and once again in negotiations in this terrible, terrible strike we’re suffering through.

“Thank you, Mr. President.”

Senator Sakamoto also rose on a point of personal privilege and stated:

“Mr. President, I rise on a point of personal privilege.

“In response to some of the previous remarks, Mr. President, during negotiations between any parties, both sides use tools, use strategies, use words to advocate a position. I personally feel that Karen Ginoza is strongly advocating her position. I think she sincerely feels she’s doing what is right for the teachers and for the students.

“Unfortunately, sometimes the media picks certain phrases or certain parts of people’s comments and seemingly creates controversy or creates feelings that people are doing things for

other reasons. But I sincerely believe in this effort to return our teachers and our students back to school. Both parties, administration and the teachers, as well as others, should cease from inflaming, cease from giving ammunition to our well-respected media, and work toward calming the waters so we can indeed come to a resolution and get students back in school.”

Senator Hemmings rose again on a point of personal privilege.

“Mr. President, I rise on a point of personal privilege in rebuttal.

“I did not intend to belabor and make a floor debate out of this issue, especially with the good Senator from Moanalua who’s been working so hard to resolve some of these issues.

“To blame the media for reporting on inflammatory comments regarding this situation I think is not quite fair. The facts are, and the teachers know it, they have been betrayed. They’ve been betrayed by the State, administration, and they’ve been betrayed, quite frankly, by their union leader who did everything in her power to support that leader of the State in the last election, including using labor union funds and resources to support the candidacy of the incumbent governor who they are now in an adversarial position with. This quite frankly hurts the teachers, and I think the teachers know it.

“So if we’re going to be enlightened and take some bold new leadership for the future, let’s put aside this partisanship. Let’s put aside this union endorsement of certain political figures at the expense of the entire State of Hawaii, and most especially the rank and file they’re supposed to be serving. The company store is now the State and the lunas are labor union leaders. Rank and file has had it and this is a situation I think should be addressed and addressed immediately because it is part and parcel of what we’re trying to do here.

“Thank you, Mr. President.”

Senator English also rose on a point of personal privilege and said:

“Mr. President, I rise on a point of personal privilege in rebuttal.

“Mr. President, this is nothing more than sour grapes. I have to say that Karen Ginoza is a person of her word; is a person who has been forthright with me and with many of us in here, but more to the point, Mr. President, what the good Senator from Kailua is pointing out is really what we’d say is ‘water under the bridge.’ Yes, there was an endorsement in the last election. Yes, many of the people . . . many of the teachers did vote for another party. Many of them voted independently, and that’s what we hope in a society that is a free society and a democratic society – one that values democratic principles.

“Now, Mr. President, when we throw kerosene like this on the fire, it explodes. Comments such as this really have very little to bear on the fact of the matter now. What we have now, Mr. President, is a union leadership, a union, rank and file that frankly, from what I’ve seen from all the people visiting my office, are working very closely together in concert with each other – leadership and rank and file. The message is pretty clear. And be it as it may in the past that they endorsed the current Governor in the last election, Mr. President, they’re sitting down on the opposite side of the negotiating table from him now.

“There was a movie once, ‘That Was Then And This Is Now.’ We’re dealing with the now, and the more we look back

on the past and what happened with allegations such as these about endorsements, what have you, it has nothing to do with the present situation – which is: we’re dealing with a strike, we’re dealing with different impassioned points of views on the value of teachers, what they should be doing, how we grade them, so to speak, and how our society values them. That’s what’s at stake.

“So I rebut the comments made by the previous speaker, the Senator from Kailua, and hope that we can move forward to a fair settlement for the teachers and for the children of Hawaii.

“Thank you, Mr. President.”

Senator Menor then rose and said:

“Mr. President, I want the words of the Senator from Wailuku and Kahului in support of Karen Ginoza to be inserted into the Journal as though they were my own.”

The Chair so ordered.

Senator Menor, Chair of the Committee on Commerce, Consumer Protection and Housing, requested a waiver of the notice requirement pursuant to Senate Rule 20 for H.C.R. No. 71, and the Chair granted the waiver.

At 12:26 o’clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:27 o’clock p.m.

At this time, Senator Matsunaga extended happy birthday wishes to Senator Ihara on behalf of the Senate.

ADJOURNMENT

At 12:30 o’clock p.m., on motion by Senator English, seconded by Senator Hemmings and carried, the Senate adjourned until 11:30 o’clock a.m., Friday, April 20, 2001.

Respectfully submitted,

Clerk of the Senate

Approved:

President of the Senate