

FIFTY-SECOND DAY

Thursday, April 22, 2004

The Senate of the Twenty-Second Legislature of the State of Hawaii, Regular Session of 2004, convened at 11:45 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by the Reverend Yoshiaki Fujitani, Bukkyo Dendo Kyokai Sudatta Society, after which the Roll was called showing all Senators present with the exception of Senators English, Kawamoto and Menor who were excused.

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

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 631 to 633) were read by the Clerk and were placed on file:

Hse. Com. No. 631, informing the Senate that the Speaker on April 21, 2004, made the following changes to the conferees on the following bills:

H.B. No. 1856, H.D. 1 (S.D. 1):

Appointed Representative Takamine as second co-chair.

S.B. No. 2405, S.D. 1 (H.D. 1):

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

Hse. Com. No. 632, informing the Senate that the Speaker on April 21, 2004, made the following changes to the conferees on the following bills:

S.B. No. 2541, S.D. 1 (H.D. 1):

Appointed Representative M. Oshiro as first co-chair.

S.B. No. 2542, S.D. 1 (H.D. 1):

Appointed Representative M. Oshiro as first co-chair.

S.B. No. 2543, S.D. 1 (H.D. 1):

Appointed Representative M. Oshiro as first co-chair.

S.B. No. 2544, S.D. 1 (H.D. 1):

Appointed Representative M. Oshiro as first co-chair.

S.B. No. 2545, S.D. 1 (H.D. 1):

Appointed Representative M. Oshiro as first co-chair.

S.B. No. 2546, S.D. 1 (H.D. 1):

Appointed Representative M. Oshiro as first co-chair.

S.B. No. 2547, S.D. 1 (H.D. 1):

Appointed Representative M. Oshiro as first co-chair.

S.B. No. 2549, S.D. 1 (H.D. 1):

Appointed Representative M. Oshiro as first co-chair.

S.B. No. 2550 (H.D. 1):

Appointed Representative M. Oshiro as first co-chair.

S.B. No. 2551 (H.D. 1):

Appointed Representative M. Oshiro as first co-chair.

S.B. No. 2556 (H.D. 1):

Appointed Representative M. Oshiro as first co-chair.

S.B. No. 3052, S.D. 2 (H.D. 2):

Discharged Representative Nakasone as a manager.
Appointed Representative Waters as a manager.

S.B. No. 2718, S.D. 1 (H.D. 1):

Appointed Representative M. Oshiro as second co-chair.

Hse. Com. No. 633, informing the Senate that the House reconsidered its action taken on April 15, 2004, in disagreeing to the amendments proposed by the Senate to H.B. No. 1743, H.D. 2 (S.D. 2).

CONFERENCE COMMITTEE REPORT

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. 1840, H.D. 1, presented a report (Conf. Com. Rep. No. 12-04) recommending that H.B. No. 1840, 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 Hawaii, action on Conf. Com. Rep. No. 12-04 and H.B. No. 1840, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO AIR POLLUTION CONTROL," was deferred for a period of 48 hours.

STANDING COMMITTEE REPORTS

Senator Taniguchi, for the majority of the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 3451) recommending that H.B. No. 1919, H.D. 1, pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 3451 and H.B. No. 1919, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYEES," was deferred until Friday, April 23, 2004.

Senator Taniguchi, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 3452) recommending that H.B. No. 2446 pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 3452 and H.B. No. 2446, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION FOR COLLECTIVE BARGAINING INCREASES," was deferred until Friday, April 23, 2004.

Senator Taniguchi, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 3453) recommending that H.B. No. 2466 pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 3453 and H.B. No. 2466, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION FOR THE STATE WORKERS' COMPENSATION PROGRAM," was deferred until Friday, April 23, 2004.

Senator Taniguchi, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 3454) recommending that H.B. No. 2293 pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 3454 and H.B. No. 2293, entitled: "A BILL FOR AN ACT RELATING TO INTERSTATE ADULT OFFENDER SUPERVISION," was deferred until Friday, April 23, 2004.

Senator Taniguchi, for the majority of the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 3455) recommending that H.B. No. 2294 pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 3455 and H.B. No. 2294, entitled: "A BILL FOR AN ACT RELATING TO FEES FOR ADMINISTRATIVE COSTS IN TRAFFIC CASES," was deferred until Friday, April 23, 2004.

Senator Taniguchi, for the majority of the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 3456) recommending that H.B. No. 2295, H.D. 1, pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 3456 and H.B. No. 2295, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO COLLECTIONS ON DELINQUENT COURT-ORDERED PAYMENTS," was deferred until Friday, April 23, 2004.

Senator Taniguchi, for the majority of the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 3457) recommending that H.B. No. 2296, H.D. 1, pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 3457 and H.B. No. 2296, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE USE OF CREDIT AND DEBIT CARDS," was deferred until Friday, April 23, 2004.

Senator Taniguchi, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 3458) recommending that H.B. No. 2354 pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 3458 and H.B. No. 2354, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION TO RISK MANAGEMENT," was deferred until Friday, April 23, 2004.

Senator Taniguchi, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 3459) recommending that H.B. No. 2439 pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 3459 and H.B. No. 2439, entitled: "A BILL FOR AN ACT RELATING TO CIVIL DEFENSE SIRENS," was deferred until Friday, April 23, 2004.

ORDER OF THE DAY

ADVISE AND CONSENT

MATTERS DEFERRED FROM MONDAY, APRIL 19, 2004

Stand. Com. Rep. No. 3438 (Gov. Msg. No. 156):

Senator Inouye moved that Stand. Com. Rep. No. 3438 be received and placed on file, seconded by Senator Espero and carried.

Senator Inouye then moved that the Senate advise and consent to the nomination of KYONG-SU IM to the Land Use Commission, term to expire June 30, 2007, seconded by Senator Espero.

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

Ayes, 22. Noes, none. Excused, 3 (English, Kawamoto, Menor).

Stand. Com. Rep. No. 3439 (Gov. Msg. No. 167):

Senator Inouye moved that Stand. Com. Rep. No. 3439 be received and placed on file, seconded by Senator Espero and carried.

Senator Inouye then moved that the Senate advise and consent to the nomination of JAMES A. FRAZIER to the Commission on Water Resource Management, term to expire June 30, 2007, seconded by Senator Espero.

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

Ayes, 22. Noes, none. Excused, 3 (English, Kawamoto, Menor).

Stand. Com. Rep. No. 3440 (Gov. Msg. No. 170):

Senator Inouye moved that Stand. Com. Rep. No. 3440 be received and placed on file, seconded by Senator Espero and carried.

Senator Inouye then moved that the Senate advise and consent to the nomination of TEENA M. RASMUSSEN to the Board of Directors of the Agribusiness Development Corporation, term to expire June 30, 2005, seconded by Senator Espero.

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

Ayes, 22. Noes, none. Excused, 3 (English, Kawamoto, Menor).

Stand. Com. Rep. No. 3441 (Gov. Msg. No. 251):

Senator Inouye moved that Stand. Com. Rep. No. 3441 be received and placed on file, seconded by Senator Espero and carried.

Senator Inouye then moved that the Senate advise and consent to the nomination of KEOKI A. LEONG to the Kaneohe Bay Regional Council, term to expire June 30, 2005, seconded by Senator Espero.

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

Ayes, 22. Noes, none. Excused, 3 (English, Kawamoto, Menor).

Stand. Com. Rep. No. 3442 (Gov. Msg. Nos. 340 and 341):

Senator Inouye moved that Stand. Com. Rep. No. 3442 be received and placed on file, seconded by Senator Espero and carried.

Senator Inouye then moved that the Senate advise and consent to the nominations to the Advisory Committee on Pesticides of the following:

JO-ANNA NAKATA, term to expire June 30, 2007 (Gov. Msg. No. 340); and

CYNTHIA K.L. REZENTES, term to expire June 30, 2007 (Gov. Msg. No. 341),

seconded by Senator Espero.

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

Ayes, 22. Noes, none. Excused, 3 (English, Kawamoto, Menor).

Stand. Com. Rep. No. 3443 (Gov. Msg. No. 375):

Senator Inouye moved that Stand. Com. Rep. No. 3443 be received and placed on file, seconded by Senator Espero and carried.

Senator Inouye then moved that the Senate advise and consent to the nomination of ALAN H. GOTTLIEB to the Board of Agriculture, term to expire June 30, 2005, seconded by Senator Espero.

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

Ayes, 22. Noes, none. Excused, 3 (English, Kawamoto, Menor).

Stand. Com. Rep. No. 3444 (Gov. Msg. Nos. 401, 402 and 403):

Senator Inouye moved that Stand. Com. Rep. No. 3444 be received and placed on file, seconded by Senator Espero and carried.

Senator Inouye then moved that the Senate advise and consent to the nominations to the Natural Area Reserve System Commission of the following:

DALE B. BONAR, term to expire June 30, 2008 (Gov. Msg. No. 401);

RICHARD F. HUGHES PH.D., term to expire June 30, 2008 (Gov. Msg. No. 402); and

LLOYD LEE LOOPE, term to expire June 30, 2008 (Gov. Msg. No. 403),

seconded by Senator Espero.

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

Ayes, 22. Noes, none. Excused, 3 (English, Kawamoto, Menor).

Stand. Com. Rep. No. 3445 (Gov. Msg. No. 388):

Senator Baker moved that Stand. Com. Rep. No. 3445 be received and placed on file, seconded by Senator Chun Oakland and carried.

Senator Baker then moved that the Senate advise and consent to the nomination of JOAN DOBBS PH.D., C.N.S. to the Health Planning Council, Honolulu Subarea, term to expire June 30, 2008, seconded by Senator Chun Oakland.

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

Ayes, 22. Noes, none. Excused, 3 (English, Kawamoto, Menor).

ADVISE AND CONSENT

Stand. Com. Rep. No. 3447 (Gov. Msg. No. 246):

Senator Ige moved that Stand. Com. Rep. No. 3447 be received and placed on file, seconded by Senator Aduja and carried.

Senator Ige then moved that the Senate advise and consent to the nomination of JOYCE NAOMI CHINEN PHD to the Hawai'i Historic Places Review Board, term to expire June 30, 2007, seconded by Senator Aduja.

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

Ayes, 22. Noes, none. Excused, 3 (English, Kawamoto, Menor).

Stand. Com. Rep. No. 3448 (Gov. Msg. Nos. 395, 396 and 397):

Senator Ige moved that Stand. Com. Rep. No. 3448 be received and placed on file, seconded by Senator Aduja and carried.

Senator Ige then moved that the Senate advise and consent to the nominations to the Island Burial Council, Island of Kaua'i and Ni'ihau of the following:

DONNA A'ANA-NAKAHARA, term to expire June 30, 2007 (Gov. Msg. No. 395);

BARBARA J. SAY, term to expire June 30, 2007 (Gov. Msg. No. 396); and

HENRIETTA ESTHER KULAMANU THAXTON, term to expire June 30, 2007 (Gov. Msg. No. 397),

seconded by Senator Aduja.

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

Ayes, 22. Noes, none. Excused, 3 (English, Kawamoto, Menor).

Stand. Com. Rep. No. 3449 (Gov. Msg. No. 398):

Senator Ige moved that Stand. Com. Rep. No. 3449 be received and placed on file, seconded by Senator Aduja and carried.

Senator Ige then moved that the Senate advise and consent to the nomination of MEI LEE WONG to the Island Burial

Council, Island of Maui and Lanai, term to expire June 30, 2007, seconded by Senator Aduja.

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

Ayes, 22. Noes, none. Excused, 3 (English, Kawamoto, Menor).

Stand. Com. Rep. No. 3450 (Gov. Msg. Nos. 399 and 400):

Senator Ige moved that Stand. Com. Rep. No. 3450 be received and placed on file, seconded by Senator Aduja and carried.

Senator Ige then moved that the Senate advise and consent to the nominations to the Island Burial Council, Island of Oahu of the following:

CY M. BRIDGES, term to expire June 30, 2007 (Gov. Msg. No. 399); and

KALEI S. KINI, term to expire June 30, 2007 (Gov. Msg. No. 400),

seconded by Senator Aduja.

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

Ayes, 22. Noes, none. Excused, 3 (English, Kawamoto, Menor).

FINAL READING

S.B. No. 1362, S.D. 3, H.D. 2:

On motion by Senator Baker, seconded by Senator Hanabusa and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 1362, S.D. 3, and S.B. No. 1362, S.D. 3, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO MENTAL HEALTH," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (English, Kawamoto, Menor).

S.B. No. 2897, S.D. 2, H.D. 2:

On motion by Senator Baker, seconded by Senator Espero and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2897, S.D. 2, and S.B. No. 2897, S.D. 2, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE DENTAL EXAMINATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (English, Kawamoto, Menor).

ADOPTION OF RESOLUTION

MATTER DEFERRED FROM WEDNESDAY, APRIL 21, 2004

Stand. Com. Rep. No. 3446 (S.R. No. 113, S.D. 2):

On motion by Senator Tsutsui, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.R. No. 113, S.D. 2, entitled: "SENATE RESOLUTION REQUESTING THE AUDITOR TO CONDUCT A

MANAGEMENT AND EFFECTIVENESS AUDIT OF THE UNIVERSITY OF HAWAII'S EFFORTS TO RECRUIT AND RETAIN NATIVE HAWAIIAN AND HAWAIIAN STUDENTS AT THE UNIVERSITY OF HAWAII AND TO ESTABLISH A BASELINE FOR EVALUATION OF IMPROVEMENTS IN PROGRAMMING IN THE FUTURE, AND FURTHER REQUESTING THE CHANCELLORS OF THE UNIVERSITY OF HAWAII TO FORM TASK FORCES TO EVALUATE THE RESULTS OF THE AUDIT AND PLAN FOR THE IMPROVEMENT OF SERVICES TO RECRUIT AND RETAIN NATIVE HAWAIIAN AND HAWAIIAN STUDENTS," was adopted.

RE-REFERRAL OF GOVERNOR'S MESSAGE

The Chair re-referred the following governor's message that was received:

Governor's Message	Referred to:
No. 476	Committee on Water, Land, and Agriculture

At 11:51 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:52 o'clock a.m.

RECONSIDERATION OF ACTIONS TAKEN

S.B. No. 2009, S.D. 1 (H.D. 1):

Senator Baker moved that the Senate reconsider its action taken on March 30, 2004, in disagreeing to the amendments proposed by the House to S.B. No. 2009, S.D. 1, seconded by Senator Tsutsui and carried.

Senator Baker moved that the Senate agree to the amendments proposed by the House to S.B. No. 2009, S.D. 1, seconded by Senator Tsutsui.

Senator Baker noted:

"Mr. President, this is a measure that had to do with telecommunications equipment in condominiums. The reason we're agreeing to the House amendment is there was one disagreement on one word. It was a technical change from a singular to a plural so we're agreeing with the House amendments."

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2009, S.D. 1, and S.B. No. 2009, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONDOMINIUM PROPERTY REGIMES," was placed on the calendar for Final Reading on Friday, April 23, 2004.

S.C.R. No. 30 (H.D. 1):

Senator Fukunaga, moved that the Senate reconsider its action taken on April 19, 2004, in disagreeing to the amendments proposed by the House to S.C.R. No. 30, seconded by Senator Tsutsui and carried.

Senator Fukunaga moved that the Senate agree to the amendments proposed by the House to S.C.R. No. 30, seconded by Senator Tsutsui.

Senator Fukunaga noted:

“Mr. President, this concurrent resolution is a companion to H.C.R. No. 21, H.D. 1, heard by the Committees on Economic Development and Transportation, Military Affairs, and Government Operations earlier this month. All testimony was in favor. In the interest of timeliness, the chairs of ECD and TMG have agreed to the amendments made by the House to the companion measure, S.C.R. No. 30, H.D. 1. Those amendments: Refer to supportive actions by the Maine State House of Representatives in endorsing this journey; Replace references to the North Korean Government with the Democratic People’s Republic of Korea; and Amend the title to reflect this change to read: ‘ENDORISING AND SUPPORTING THE SPIRIT OF HAWAII GOODWILL AND FRIENDSHIP COASTAL KOREA VISIT AND URGING THE DEMOCRATIC PEOPLE’S REPUBLIC OF KOREA TO SUPPORT JAE KWON LEE AND JONATHAN COWLES ON THEIR JOURNEY TO NORTH KOREA.’”

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.C.R. No. 30, and S.C.R. No. 30, H.D. 1, entitled: “SENATE CONCURRENT RESOLUTION ENDORSING AND SUPPORTING THE SPIRIT OF HAWAII GOODWILL AND FRIENDSHIP COASTAL KOREA VISIT AND URGING THE DEMOCRATIC PEOPLE’S REPUBLIC OF KOREA TO SUPPORT JAE KWON LEE AND JONATHAN COWLES ON THEIR JOURNEY TO NORTH KOREA,” was placed on the calendar for Final Adoption on Friday, April 23, 2004.

At 11:55 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.

Senator Baker, Chair of the Committee on Health, requested a waiver of the notice requirement pursuant to Senate Rule 21 for H.C.R. Nos. 141 and 150.

Senator Baker noted:

“Mr. President, these resolutions are being scheduled in order to meet the crossover deadline on Monday.”

The Chair then granted the waiver.

Senator Hanabusa, Chair of the Committee on Judiciary and Hawaiian Affairs, requested a waiver of the notice requirement pursuant to Senate Rule 21 for the following resolutions:

H.C.R. No. 261;
H.C.R. No. 265; and
H.C.R. No. 267.

Senator Hanabusa noted:

“Mr. President, these resolutions are being scheduled in order to meet the crossover deadline on Monday.”

The Chair then granted the waiver.

At this time, the President made the following announcement:

“Members, since the 51st Day of the Session has passed and we haven’t received all of the expected nominations to the boards and commissions from the Governor, if there are no objections from the members, I am suspending Senate Rule 37(2) and informing the Governor that she will have until 10:00 a.m. on Friday, April 23 to submit her nominations for the Senate’s consideration.”

By unanimous consent, Senate Rule 37(2) was suspended.

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

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

“I’m happy to hear that you’re suspending that Rule because as far as the Education Committee is concerned, Board of Regents appointments are important. Last week I did send a letter up to the Governor asking if she could make her appointments. She did respond, although the response didn’t say she’d hastily send it down, I do hope so in light of the public interest. These are policy-making positions, and I believe we need to do our job, Mr. President, to hold a hearing, receive testimony – positive or not – and ideally confirm these people prior to them actually getting into the policy-making rules.

“So, I’m glad you’re doing what you’re doing and hopefully we get timely appointments sent down on the regents as well as many, many other positions.

“Thank you.”

APPOINTMENT AND DISCHARGE OF CONFEREES

S.B. No. 3193, 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. 3193, S.D. 2, and the request for a conference on the subject matter thereof, the President appointed Senators Menor, Taniguchi, co-chairs; Espero, Whalen as managers on the part of the Senate at such conference.

H.B. No. 1820, 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. 1820, H.D. 1, and the request for a conference on the subject matter thereof, the President appointed Senators Menor, chair; Espero, Whalen as managers on the part of the Senate at such conference.

H.B. No. 2667, H.D. 2 (S.D. 1):

The President discharged Senator Kanno as a co-chair 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. 2667, H.D. 2.

H.B. No. 2840, H.D. 1 (S.D. 3):

In accordance with the disagreement of the House to the amendments proposed by the Senate to H.B. No. 2840, H.D. 1, and the request for a conference on the subject matter thereof, the President appointed Senators Fukunaga, Inouye, Ige, Taniguchi, co-chairs; Kokubun, Sakamoto, Slom as managers on the part of the Senate at such conference.

ADJOURNMENT

At 12:12 o’clock p.m., on motion by Senator Tsutsui, seconded by Senator Hogue and carried, the Senate adjourned until 11:30 o’clock a.m., Friday, April 23, 2004.