

FIFTY-SIXTH DAY

Wednesday, April 28, 2004

The Senate of the Twenty-Second Legislature of the State of Hawaii, Regular Session of 2004, convened at 12:12 o'clock p.m. with the President in the Chair.

The Divine Blessing was invoked by the Reverend Sam Cox, Kailua Methodist Church and The Interfaith Open Table, after which the Roll was called showing all Senators present.

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

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 496 to 502) were read by the Clerk and were disposed of as follows:

Gov. Msg. No. 496, dated April 27, 2004, transmitting her statement of objections to House Bill No. 1797 which she has returned to the House of Representatives without her approval and which reads as follows:

“EXECUTIVE CHAMBERS
HONOLULU

April 27, 2004

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 1797

Honorable Members
Twenty-Second Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 1797, entitled ‘A Bill for an Act Relating to Optometry.’

The purpose of this bill is to allow optometrists to use and prescribe therapeutic pharmaceutical agents, including steroidal agents, for all disorders of the human visual system, to administer injections for anaphylaxis, and to treat glaucoma. Since many serious systemic illnesses affect the eye, the bill would allow optometrists to prescribe a wide range of medication.

This bill is objectionable because it constitutes a significant relaxation of current restrictions and raises health and safety concerns. The training that optometrists receive is less than the rigorous instruction physicians are required to receive to gain prescriptive authority in the State of Hawaii. For example graduates of University of Hawaii’s John A. Burns School of Medicine, after four years of extensive medical training, are required to undergo an additional year of residency before they are allowed to independently prescribe medications.

Optometrists are required to complete a four-year degree program and to undergo additional instruction to use and prescribe a restricted class of medications. This bill would remove the restrictions on how optometrists use these medications for the treatment of serious eye diseases, such as corneal ulcers in children, or prolonged eye inflammations.

Time is of the essence in treating eye infections. If treated inappropriately or belatedly, the result could be severe complications, including blindness. According to the Hawaii

Ophthalmological Society (HOS), there are 33 states that do not allow optometrists to prescribe oral steroids, 31 states that prohibit optometrists from prescribing oral anti-fungal medications, 18 states that prohibit optometrists from prescribing oral antibiotics, 27 states that prohibit optometrists from prescribing oral anti-virals, and 22 states that prohibit optometrists from prescribing non-steroidal anti-inflammatory medications.

While more narrow modifications of current law with appropriate safeguards might be acceptable, this bill goes too far in deleting the restrictions that have been in place on the use of topical steroidal agents and anti-viral agents. I, therefore, urge ophthalmologists, optometrists, and their respective boards, and the John A. Burns School of Medicine to establish appropriate guidelines for future legislative consideration. Because of the serious health and safety concerns associated with the sweeping relaxation of restrictions proposed by this bill, its enactment would not be in the best interest of the people of Hawaii.

For the foregoing reasons, I am returning House Bill No. 1797 without my approval.

Respectfully,

/s/ Linda Lingle
LINDA LINGLE
Governor of Hawaii,”

was placed on file.

Gov. Msg. No. 497, dated April 27, 2004, transmitting her statement of objections to Senate Bill No. 2525, H.D. 1, C.D. 1, which she has returned to the Senate without her approval and which reads as follows:

“EXECUTIVE CHAMBERS
HONOLULU

April 27, 2004

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 2525 HD1 CD1

Honorable Members
Twenty-Second Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 2525 HD1 CD1, entitled ‘Relating to State Funds.’

The purpose of this bill is to dramatically restructure the method of funding the Department of Commerce and Consumer Affairs (‘Department’) by repealing the Compliance Resolution Fund (‘CRF’). This bill requires the transfer of monies in the CRF account as of June 30, 2004 to the general fund, with the exception of \$4.2 million that would be used by the Department’s Professional and Vocational Licensing division (‘PVL’). The bill also imposes a 90% floor and a 110% ceiling on annual Department revenues in relation to Department expenses.

This bill is objectionable because it destroys a system under which the Department is successfully accomplishing its missions – protecting consumers, regulating various businesses,

and overseeing business registrations and filings. This bill compromises the ability of the Department to achieve these important public purposes. The bill takes approximately \$35 million from the State's businesses rather than return that money to these businesses. It is a money grab, first and foremost.

The current system of self-sufficiency allows the Department of Commerce and Consumer Affairs to operate with regulatory independence and objectivity. The Department regulates many different businesses and professions, including financial institutions, insurance companies, utilities, and many professions and vocations. It often has to make judgments that are not popular with those being regulated. Being self-sufficient insures the continuity of resources to carry out these important regulatory tasks. In addition, being self-sufficient allows the Department to avoid competing for funds and being underfunded as has happened in the past. This bill would irrefutably harm the Department's functioning by changing the system of funding.

On a practical level, the bill was introduced without warning, without sufficient discussion, and without evident thought. As a result, it is badly written.

For example, the bill is silent on whether the 90% floor and 110% ceiling created in Section 2 includes general fund appropriations or just special funds. The bill is also silent as to whether those calculations are to be made across the Department as a whole or on a division-by-division basis.

There are other aspects of this bill that are incongruous with its stated purpose or have unintended consequences. Although this bill purports to retain self-sufficiency for licensing activities, it places in the general fund those fees resulting from regulation of condominium property regimes by the Real Estate Commission.

Unintended consequences are further evidenced by the fact that the Medical Claims Conciliation Panel ('MCCP') is left unfunded. The Department will be unable to hear all of the cases brought to the MCCP and will not be able to make refunds to any parties to such cases.

Section 2 of the bill transfers the Compliance Resolution Fund balance to the general fund at the end of the fiscal year. These monies, however, were collected from thousands of businesses, professionals, and other licensees for the purpose of providing specific services. While this may be legally permissible, it is bad policy. There is already on-going litigation brought by the Hawaii Insurers Council over the 2002 transfer of \$2 million from the Insurance Regulation Fund (a fund now incorporated within the CRF) to the general fund (Act 178/2002). Hawaii Insurers Council alleges that such transfers violate specific statutes as well as the state and federal constitutions insofar as 'it would result in the transformation of the assessments dictated and imposed by the Insurance Commissioner on insurance companies into an illegal and unconstitutional tax.' This bill may very well spawn more such litigation.

Ultimately, there is no justification for this bill. Legislators contended that the bill would advance 'accountability' and 'transparency', and would ensure against the Department's accumulation of what the Legislators characterized as 'excess funds', which, allegedly, were the consequences of Department fees that are too high. These are clearly opportunistic arguments, with no basis in fact as related to this Department.

Accountability and transparency are already guaranteed by the budgetary process that the Department and the CRF undergo

each year. Unlike other special funds, the CRF is thoroughly analyzed by both the Administration and the Legislature, with spending ceilings approved by the Legislature as part of each budget. If the Legislature were truly interested in accountability and transparency or the reduction of 'excess' reserves, it could have adopted the Department's offer to place a reserve ceiling and reporting requirements in the law without repealing the CRF. Further, the Legislature could have passed the bills submitted by the Department that would have allowed the Department to further cut its fees.

For the foregoing reasons, I am returning Senate Bill No. 2525 HD1 CD 1 without my approval.

Respectfully,

/s/ Linda Lingle
LINDA LINGLE
Governor of Hawaii,"

was placed on file.

At this time, the President made the following announcement:

"The Senate will review the Governor's statements of objections to said bills and we will consider any appropriate actions."

Gov. Msg. No. 498, informing the Senate that on April 28, 2004, she signed into law Senate Bill No. 2815 as Act 20, entitled: "RELATING TO MILK CONTROL," was placed on file.

Gov. Msg. No. 499, informing the Senate that on April 28, 2004, she signed into law House Bill No. 1926 as Act 21, entitled: "RELATING TO EDUCATION," was placed on file.

Gov. Msg. No. 500, informing the Senate that on April 28, 2004, she signed into law Senate Bill No. 2005 as Act 22, entitled: "RELATING TO MEDICAL RECORDS," was placed on file.

Gov. Msg. No. 501, informing the Senate that on April 28, 2004, she signed into law House Bill No. 2142 as Act 23, entitled: "RELATING TO BUSINESS PRACTICES," was placed on file.

Gov. Msg. No. 502, advising the Senate of the withdrawal of the nomination of ROBERT T. OKUDA to the Cable Advisory Committee, under Gov. Msg. No. 445, dated April 16, 2004, was placed on file.

In compliance with Gov. Msg. No. 502, the nomination listed under Gov. Msg. No. 445 was returned.

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 677 to 690) were read by the Clerk and were placed on file:

Hse. Com. No. 677, returning S.C.R. No. 51, which was adopted by the House of Representatives on April 27, 2004.

Hse. Com. No. 678, returning S.C.R. No. 52, which was adopted by the House of Representatives on April 27, 2004.

Hse. Com. No. 679, returning S.C.R. No. 68, S.D. 1, which was adopted by the House of Representatives on April 27, 2004.

Hse. Com. No. 680, returning S.C.R. No. 97, which was adopted by the House of Representatives on April 27, 2004.

Hse. Com. No. 681, returning S.C.R. No. 126, which was adopted by the House of Representatives on April 27, 2004.

Hse. Com. No. 682, returning S.C.R. No. 181, S.D. 1, which was adopted by the House of Representatives on April 27, 2004.

Hse. Com. No. 683, returning S.C.R. No. 203, which was adopted by the House of Representatives on April 27, 2004.

Hse. Com. No. 684, returning S.C.R. No. 209, S.D. 1, which was adopted by the House of Representatives on April 27, 2004.

Hse. Com. No. 685, informing the Senate that the House has disagreed to the amendments proposed by the Senate to the following House concurrent resolutions:

H.C.R. No. 49, H.D. 1, S.D. 1;
H.C.R. No. 54, H.D. 1, S.D. 1;
H.C.R. No. 83, S.D. 1;
H.C.R. No. 138, H.D. 1, S.D. 1;
H.C.R. No. 165, S.D. 1;
H.C.R. No. 245, H.D. 1, S.D. 1; and
H.C.R. No. 261, H.D. 1, S.D. 1.

Hse. Com. No. 686, informing the Senate that the House has agreed to the amendments proposed by the Senate to the following House bills and said bills passed Final Reading in the House on April 27, 2004:

H.B. No. 1944, H.D. 1, S.D. 1;
H.B. No. 2250, H.D. 2, S.D. 2;
H.B. No. 2297, H.D. 1, S.D. 2; and
H.B. No. 2740, H.D. 1, S.D. 1.

Hse. Com. No. 687, informing the Senate that the House has agreed to the amendments proposed by the Senate to H.B. No. 2337, H.D. 1, and H.B. No. 2337, H.D. 1, S.D. 1, passed Final Reading in the House of Representatives on April 27, 2004.

Hse. Com. No. 688, informing the Senate that the House reconsidered its actions taken on April 8, 2004, in disagreeing to the amendments proposed by the Senate to the following House bills:

H.B. No. 1991, H.D. 1, (S.D. 1); and
H.B. No. 2223 (S.D. 1).

Hse. Com. No. 689, informing the Senate that the House reconsidered its actions taken on April 2, 2004, in disagreeing to the amendments proposed by the Senate to the following House bills:

H.B. No. 1824 (S.D. 1);
H.B. No. 2140, H.D. 1, (S.D. 1);
H.B. No. 2147, H.D. 1, (S.D. 1); and
H.B. No. 2421 (S.D. 1).

Hse. Com. No. 690, informing the Senate that the House reconsidered its actions taken on April 15, 2004, in disagreeing to the amendments proposed by the Senate to the following House bills:

H.B. No. 1893, H.D. 2, (S.D. 1);
H.B. No. 2092, H.D. 2, (S.D. 2);
H.B. No. 2363, H.D. 1, (S.D. 2);
H.B. No. 2569, H.D. 1, (S.D. 1); and
H.B. No. 2871, H.D. 2, (S.D. 1).

CONFERENCE COMMITTEE REPORTS

Senator Baker, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House to S.B. No. 2586, S.D. 2, presented a report (Conf. Com. Rep. No. 23-04) recommending that S.B. No. 2586, S.D. 2, H.D. 2, as amended in C.D. 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 23-04 and S.B. No. 2586, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PROFESSIONAL AND VOCATIONAL LICENSING," was deferred for a period of 48 hours.

Senator Baker, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House to S.B. No. 2948, S.D. 2, presented a report (Conf. Com. Rep. No. 24-04) recommending that S.B. No. 2948, S.D. 2, H.D. 1, as amended in C.D. 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 24-04 and S.B. No. 2948, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC HEALTH NURSING SERVICES," was deferred for a period of 48 hours.

Senator Chun Oakland, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House to S.B. No. 2608, S.D. 1, presented a report (Conf. Com. Rep. No. 25-04) recommending that S.B. No. 2608, S.D. 1, H.D. 1, as amended in C.D. 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 25-04 and S.B. No. 2608, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CRITICAL ACCESS HOSPITALS," was deferred for a period of 48 hours.

Senator Chun Oakland, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House to S.B. No. 2929, S.D. 1, presented a report (Conf. Com. Rep. No. 26-04) recommending that S.B. No. 2929, S.D. 1, H.D. 1, as amended in C.D. 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 26-04 and S.B. No. 2929, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MEDICAID REIMBURSEMENT," was deferred for a period of 48 hours.

Senator Menor, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate to H.B. No. 1259, H.D. 1, presented a report (Conf. Com. Rep. No. 27-04) recommending that H.B. No. 1259, 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. 27-04 and H.B. No. 1259, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIFORM COMMERCIAL CODE," was deferred for a period of 48 hours.

Senator Chun Oakland, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate to H.B. No. 2020, H.D. 1, presented a report (Conf. Com. Rep. No. 28-04) recommending that H.B. No. 2020, H.D. 1, S.D. 2, as amended in C.D. 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 28-04 and H.B. No. 2020, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PROSTITUTION," was deferred for a period of 48 hours.

Senator English, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate to H.B. No. 2013, presented a report (Conf. Com. Rep. No. 29-04) recommending that H.B. No. 2013, S.D. 2, as amended in C.D. 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 29-04 and H.B. No. 2013, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO POLYBROMINATED DIPHENYL ETHERS," was deferred for a period of 48 hours.

Senator Hanabusa, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House to S.B. No. 2748, S.D. 1, presented a report (Conf. Com. Rep. No. 30-04) recommending that S.B. No. 2748, S.D. 1, H.D. 2, as amended in C.D. 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 30-04 and S.B. No. 2748, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DRUG DEMAND REDUCTION ASSESSMENTS," was deferred for a period of 48 hours.

Senator Hanabusa, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House to S.B. No. 2840, S.D. 2, presented a report (Conf. Com. Rep. No. 31-04) recommending that S.B. No. 2840, S.D. 2, H.D. 2, as amended in C.D. 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 31-04 and S.B. No. 2840, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TOBACCO," was deferred for a period of 48 hours.

Senator Hanabusa, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House to S.B. No. 2861, S.D. 1, presented a report (Conf. Com. Rep. No. 32-04) recommending that S.B. No. 2861, S.D. 1, H.D. 2, as amended in C.D. 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 32-04 and S.B. No. 2861, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CRIMINAL PROCEDURE," was deferred for a period of 48 hours.

Senator Hanabusa, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House to S.B. No. 3113, S.D. 1, presented a report (Conf. Com. Rep. No. 33-04) recommending that S.B. No. 3113, S.D. 1, H.D. 1, as amended in C.D. 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 33-04 and S.B. No. 3113, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO VOTING," was deferred for a period of 48 hours.

Senator Kawamoto, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate to H.B. No. 1765, H.D. 1, presented a report (Conf.

Com. Rep. No. 34-04) recommending that H.B. No. 1765, 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. 34-04 and H.B. No. 1765, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT BOARDS, COMMISSIONS, AND AGENCIES," was deferred for a period of 48 hours.

Senator Hanabusa, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate to H.B. No. 2254, presented a report (Conf. Com. Rep. No. 35-04) recommending that H.B. No. 2254, 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. 35-04 and H.B. No. 2254, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CHAPTER 707, HAWAII REVISED STATUTES," was deferred for a period of 48 hours.

Senator Hanabusa, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate to H.B. No. 2683, presented a report (Conf. Com. Rep. No. 36-04) recommending that H.B. No. 2683, 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. 36-04 and H.B. No. 2683, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DEFERRED ACCEPTANCE OF GUILTY PLEA AND DEFERRED ACCEPTANCE OF NOLO CONTENDERE PLEA," was deferred for a period of 48 hours.

Senator Inouye, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House to S.B. No. 3025, presented a report (Conf. Com. Rep. No. 37-04) recommending that S.B. No. 3025, H.D. 1, as amended in C.D. 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 37-04 and S.B. No. 3025, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE OFFICE OF PLANNING," was deferred for a period of 48 hours.

STANDING COMMITTEE REPORT

Senators Sakamoto and Nakata, for the Committee on Education and the Committee on Labor, presented a joint report (Stand. Com. Rep. No. 3501) recommending that H.C.R. No. 203 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 3501 and H.C.R. No. 203, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF EDUCATION AND THE DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT TO STUDY AND IMPLEMENT PARITY BETWEEN OCCUPATIONAL THERAPISTS, PHYSICAL THERAPISTS, AND SPEECH THERAPISTS WITHIN THE DEPARTMENT OF EDUCATION," was deferred until Thursday, April 29, 2004.

ORDER OF THE DAY

ADVISE AND CONSENT

Stand. Com. Rep. No. 3495 (Gov. Msg. Nos. 163, 164 and 409):

Senator Kim moved that Stand. Com. Rep. No. 3495 be received and placed on file, seconded by Senator Tsutsui and carried.

Senator Kim then moved that the Senate advise and consent to the nominations to the Board of Directors of the Hawai'i Tourism Authority of the following:

VERNON F.L. CHAR, term to expire June 30, 2006 (Gov. Msg. No. 163);

JOHN J. TONER, term to expire June 30, 2006 (Gov. Msg. No. 164); and

KYOKO Y. KIMURA, term to expire June 30, 2008 (Gov. Msg. No. 409),

seconded by Senator Tsutsui.

Senator Kim rose to speak in favor of the nominees and said:

"Mr. President, Gov. Msg. No. 163 is for the appointment of Vernon Char to the Hawaii Tourism Authority, Gov. Msg. No. 164 is for the appointment of John Toner, and Gov. Msg. No. 409 is for the appointment of Kyoko Kimura all to the Hawaii Tourism Authority.

"The first two messages are actually appointments. These two individuals have been serving as interim directors. Gov. Msg. No. 409, Ms. Kimura is a reappointment.

"You all have their vision statements on your desks. This is a practice of the Tourism Committee, and I ask that you support the nominations.

"Thank you."

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3496 (Gov. Msg. No. 448):

Senator Kawamoto moved that Stand. Com. Rep. No. 3496 be received and placed on file, seconded by Senator Espero and carried.

Senator Kawamoto then moved that the Senate advise and consent to the nomination of MYRON N. DOBASHI (RET) to the Civil Defense Advisory Council, term to expire June 30, 2008, seconded by Senator Espero.

Senator Kawamoto rose to speak in support of the nominee and said:

"Mr. President, Gov. Msg. No. 448 is the appointment of Myron Dobashi, a retired General from the Air National Guard. I just want to let you know that he's been involved with the civil defense and various commissions since he was in the military and we find him highly qualified. Therefore, I urge all my colleagues to vote 'aye.'

"Thank you."

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

Ayes, 25. Noes, none.

FINAL READING

S.B. No. 2899, S.D. 2, H.D. 1:

On motion by Senator Baker, seconded by Senator Menor and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2899, S.D. 2, and S.B. No. 2899, S.D. 2, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO NURSES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 15-04 (H.B. No. 2578, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator English, seconded by Senator Kokubun and carried, Conf. Com. Rep. No. 15-04 was adopted and H.B. No. 2578, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST HONOLULU SEAWATER AIR CONDITIONING LLC PROJECTS ON THE ISLAND OF OAHU," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 16-04 (H.B. No. 2322, H.D. 1, S.D. 2, C.D. 1):

Senator Inouye moved that Conf. Com. Rep. No. 16-04 be adopted and H.B. No. 2322, H.D. 1, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

Senator Espero rose to speak in support of the measure and said:

"Mr. President, I'd like to rise in support of this measure.

"This measure would assist Aloun Farms, one of the more successful farmers in our state which has many acres in West Oahu, to build a brand new state-of-the-art agricultural plant in Ewa. This is a measure which is strong for economic development. It's assisting our agricultural community and our diversified farmers.

"I urge and thank my colleagues for their support on this measure. Thank you, Mr. President."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 16-04 was adopted and H.B. No. 2322, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST PROCESSING ENTERPRISES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 17-04 (H.B. No. 1828, H.D. 1, S.D. 1, C.D. 1):

Senator Hanabusa moved that Conf. Com. Rep. No. 17-04 be adopted and H.B. No. 1828, H.D. 1, S.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Chun Oakland.

Senator Trimble rose with reservations and said:

“Mr. President, I rise with reservations.

“Senate district 12 extends along the coast from Waikiki to Kalihi. This bill only designates one particular area of my district. I’m curious why.

“If any of you have the opportunity, like I did 15 years ago, to frequent the Ala Wai Yacht Harbor, it was a fairly common occurrence between 10 and 11 in the morning to see a visitor come out of the Ilikai, walk down through the harbor, walk to the end of the pier and urinate. So obviously, this bill is not designed to take care of that problem because it doesn’t include Waikiki.

“The second thing I find reasonably curious is that the person must intentionally . . . have any of you ever experienced unintentional, you know, when you’ve got to go, you’ve got to go. Is it going to be a defense that can be presented to the judge that it was indeed unintentional? (Laughter.)

“The third thing that I find kind of curious is, a couple of weeks ago we dealt with vexatious requestors, what about the person that intentionally comes to the State Capitol lawn to express his dissatisfaction with state government? Is this not an expression of speech, an expression of action telling you what he thinks?

“Anyway, perhaps this measure is worthy of a little bit more discussion before we unanimously adopt it. Thank you, Mr. President.”

Senator Ihara also rose with reservations and said:

“Mr. President, could you note my reservations on this bill for only a few of the points made by the previous speaker. (Laughter.)

“Thank you.”

The Chair so ordered.

The motion was put by the Chair and carried, Conf. Com. Rep. No. 17-04 was adopted and H.B. No. 1828, H.D. 1, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO PUBLIC ORDER,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 18-04 (H.B. No. 2022, H.D. 2, S.D. 1, C.D. 1):

On motion by Senator Chun Oakland, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 18-04 was adopted and H.B. No. 2022, H.D. 2, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO GENERAL ASSISTANCE,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 19-04 (S.B. No. 3207, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator English, seconded by Senator Kokubun and carried, Conf. Com. Rep. No. 19-04 was adopted and S.B. No. 3207, S.D. 2, H.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO ETHANOL TAX CREDIT,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 2 (Hemmings, Slom).

At 12:25 o’clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:29 o’clock p.m.

FINAL ADOPTION

S.C.R. No. 9, S.D. 1, H.D. 1:

Senator Inouye moved that S.C.R. No. 9, S.D. 1, H.D. 1, be Finally Adopted, seconded by Senator Espero.

Senator Ihara rose and said:

“Mr. President, please note my reservations in support of this resolution.”

The Chair so ordered.

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.C.R. No. 9, S.D. 1, and S.C.R. No. 9, S.D. 1, H.D. 1, entitled: “SENATE CONCURRENT RESOLUTION SUBMITTING TO THE LEGISLATURE OF THE STATE OF HAWAII FOR REVIEW OF ACTION TAKEN BY THE BOARD OF LAND AND NATURAL RESOURCES ON LAND EXCHANGES,” was Finally Adopted on the following showing of Ayes and Noes:

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

S.C.R. No. 17 H.D. 1:

On motion by Senator Baker, seconded by Senator Chun Oakland and carried, the Senate agreed to the amendments proposed by the House to S.C.R. No. 17, and S.C.R. No. 17, H.D. 1, entitled: “SENATE CONCURRENT RESOLUTION URGING THE SETTING OF AN EXAMPLE TO OUR CHILDREN AND OUT-OF-STATE VISITORS BY DESIGNATING ALL AREAS OF THE STATE CAPITOL SMOKE-FREE,” was Finally Adopted on the following showing of Ayes and Noes:

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

ADOPTION OF RESOLUTIONS

MATTERS DEFERRED FROM TUESDAY, APRIL 27, 2004

Stand. Com. Rep. No. 3497 (H.C.R. No. 250):

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and H.C.R. No. 250, entitled: “HOUSE CONCURRENT RESOLUTION REQUESTING THE PRESIDENT OF THE UNITED STATES AND THE UNITED STATES CONGRESS TO SUPPORT H.R. 677 EXTENDING VETERANS’ BENEFITS TO FILIPINO VETERANS,” was adopted.

Stand. Com. Rep. No. 3498 (H.C.R. No. 36, H.D. 1):

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and H.C.R. No. 36, H.D. 1, entitled: “HOUSE CONCURRENT RESOLUTION AUTHORIZING AND REQUESTING THE GOVERNOR TO ESTABLISH A SISTER-STATE RELATIONSHIP BETWEEN THE STATE OF HAWAII OF THE UNITED STATES AND THE STATE OF RABAT-SALÉ-ZEMMOUR-ZAËR OF THE KINGDOM OF

MOROCCO,” was adopted, with Senator Baker voting “Aye, with reservations.”

Stand. Com. Rep. No. 3499 (H.C.R. No. 171):

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and H.C.R. No. 171, entitled: “HOUSE CONCURRENT RESOLUTION REQUESTING THE DIRECTOR OF TRANSPORTATION TO STUDY THE ADVISABILITY OF TRANSFERRING THE VANPOOL PROGRAM TO THE COUNTIES,” was adopted.

Stand. Com. Rep. No. 3500 (H.C.R. No. 258):

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and H.C.R. No. 258, entitled: “HOUSE CONCURRENT RESOLUTION URGING THE UNITED STATES CONGRESS TO SUPPORT THE PASSAGE OF S. 68, RELATING TO IMPROVING BENEFITS FOR FILIPINO VETERANS OF WORLD WAR II,” was adopted.

At 12:31 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 1:06 o'clock p.m.

APPOINTMENT OF CONFEREES

S.B. No. 2995, S.D. 2 (H.D. 1):

The President appointed Senator Taniguchi as an additional manager on the part of the Senate at the conference to be held for the consideration of amendments proposed by the House to S.B. No. 2995, S.D. 2.

S.C.R. No. 118, S.D. 1 (H.D. 1):

In accordance with the disagreement of the Senate to the amendments proposed by the House to S.C.R. No. 118, S.D. 1, and the request for a conference on the subject matter thereof, the President appointed Senators Kawamoto, Taniguchi, co-chairs; Kim, Kokubun, Tsutsui, Whalen as managers on the part of the Senate at such conference.

S.C.R. No. 127, S.D. 1 (H.D. 1):

In accordance with the disagreement of the Senate to the amendments proposed by the House to S.C.R. No. 127, S.D. 1, and the request for a conference on the subject matter thereof, the President appointed Senators Kanno, chair; Taniguchi, Slom as managers on the part of the Senate at such conference.

Senator Hemmings rose on a point of personal privilege and said:

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

“I just want the record to note it was a good thing.”

CONFERENCE COMMITTEE REPORTS

On motion by Senator Kawamoto, seconded by Senator Hogue and carried unanimously, the Senate authorized the Clerk to receive Conference Committee Reports on Senate and House bills for Final Reading. In consequence thereof, and subsequent to its recessing at 1:08 o'clock p.m., the Senate took the following actions:

Senator Kawamoto, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate to H.B. No. 1770, H.D. 1, presented a report (Conf. Com. Rep. No. 38-04) recommending that H.B. No. 1770, H.D. 1, S.D. 2, as amended in C.D. 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 38-04 and H.B. No. 1770, H.D. 1, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO MOTOR VEHICLES,” was deferred for a period of 48 hours.

Senator Chun Oakland, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate to H.B. No. 2023, H.D. 2, presented a report (Conf. Com. Rep. No. 39-04) recommending that H.B. No. 2023, H.D. 2, S.D. 2, as amended in C.D. 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 39-04 and H.B. No. 2023, H.D. 2, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO ADMINISTRATIVE APPEALS,” was deferred for a period of 48 hours.

Senator Hanabusa, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate to H.B. No. 2674, H.D. 1, presented a report (Conf. Com. Rep. No. 40-04) recommending that H.B. No. 2674, 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. 40-04 and H.B. No. 2674, H.D. 1, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO IDENTITY THEFT,” was deferred for a period of 48 hours.

Senator Ige, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate to H.B. No. 2739, H.D. 1, presented a report (Conf. Com. Rep. No. 41-04) recommending that H.B. No. 2739, H.D. 1, S.D. 2, as amended in C.D. 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 41-04 and H.B. No. 2739, H.D. 1, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS BY THE HIGH TECHNOLOGY DEVELOPMENT CORPORATION,” was deferred for a period of 48 hours.

Senator Menor, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House to S.B. No. 2908, S.D. 1, presented a report (Conf. Com. Rep. No. 42-04) recommending that S.B. No. 2908, S.D. 1, H.D. 1, as amended in C.D. 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 42-04 and S.B. No. 2908, S.D. 1, H.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO BUSINESS REGISTRATION,” was deferred for a period of 48 hours.

Senator Ige, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House to S.B. No. 2377, S.D. 1, presented a report (Conf. Com. Rep. No. 43-04) recommending that S.B. No. 2377, S.D. 1, H.D. 1, as amended in C.D. 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 43-04 and S.B. No. 2377, S.D. 1, H.D. 1, C.D. 1, entitled: “A BILL

FOR AN ACT RELATING TO PRIVACY,” was deferred for a period of 48 hours.

Senator Ige, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House to S.B. No. 2380, S.D. 1, presented a report (Conf. Com. Rep. No. 44-04) recommending that S.B. No. 2380, S.D. 1, H.D. 1, as amended in C.D. 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 44-04 and S.B. No. 2380, S.D. 1, H.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE STATE ART MUSEUM,” was deferred for a period of 48 hours.

Senator Baker, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House to S.B. No. 3156, S.D. 1, presented a report (Conf. Com. Rep. No. 45-04) recommending that S.B. No. 3156, S.D. 1, H.D. 1, as amended in C.D. 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 45-04 and S.B. No. 3156, S.D. 1, H.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO EMERGENCY MEDICAL SERVICES,” was deferred for a period of 48 hours.

Senator Baker, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House to S.B. No. 3085, S.D. 2, presented a report (Conf. Com. Rep. No. 46-04) recommending that S.B. No. 3085, S.D. 2, H.D. 2, as amended in C.D. 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 46-04 and S.B. No. 3085, S.D. 2, H.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO NURSES,” was deferred for a period of 48 hours.

Senator Inouye, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House to S.B. No. 2782, S.D. 1, presented a report (Conf. Com. Rep. No. 47-04) recommending that S.B. No. 2782, S.D. 1, H.D. 1, as amended in C.D. 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 47-04 and S.B. No. 2782, S.D. 1, H.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE FUNDING OF A HABITAT CONSERVATION PLAN,” was deferred for a period of 48 hours.

Senator Baker, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate to H.B. No. 2814, H.D. 2, presented a report (Conf. Com. Rep. No. 48-04) recommending that H.B. No. 2814, H.D. 2, S.D. 1, as amended in C.D. 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 48-04 and H.B. No. 2814, H.D. 2, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO KALAUPAPA SETTLEMENT,” was deferred for a period of 48 hours.

Senator Baker, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate to H.B. No. 2472, H.D. 2, presented a report (Conf. Com. Rep. No. 49-04) recommending that H.B. No. 2472, H.D. 2, S.D. 1, as amended in C.D. 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 49-04 and H.B. No. 2472, H.D. 2, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE SALE OF STERILE SYRINGES FOR THE PREVENTION OF DISEASE,” was deferred for a period of 48 hours.

Senator Hanabusa, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate to H.B. No. 1980, H.D. 1, presented a report (Conf. Com. Rep. No. 50-04) recommending that H.B. No. 1980, 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. 50-04 and H.B. No. 1980, H.D. 1, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO FAMILY COURT,” was deferred for a period of 48 hours.

ADJOURNMENT

At 6:30 o'clock p.m., the Senate adjourned until 6:30 o'clock p.m., Thursday, April 29, 2004.

Respectfully submitted,

Clerk of the Senate

Approved:

President of the Senate