

## FORTY-FOURTH DAY

## Wednesday, April 8, 2009

The Senate of the Twenty-Fifth Legislature of the State of Hawai'i, Regular Session of 2009, convened at 11:35 a.m. with the President in the Chair.

The Divine Blessing was invoked by Mr. Ainoa Naniole, Office of the Honorable Russell S. Kokubun, Hawai'i State Senate, after which the Roll was called showing all Senators present.

The President announced that she had read and approved the Journal of the Forty-Third Day.

At this time, the following introductions were made to the members of the Senate:

Senator Sakamoto congratulated the Hawai'i Branch of the International Dyslexia Association (HIDA) on 25 years of service in Hawai'i. Representing HIDA were current President Elizabeth Ann Ishii and former President Susan Walker Kowen.

Senator Gabbard honored and commended Richard Maruya, inventor of the HCR188C climate friendly refrigerant.

At 11:46 a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:52 a.m.

## MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 599 to 601) were read by the Clerk and were placed on file:

Gov. Msg. No. 599, dated March 24, 2009, transmitting a report prepared by the Department of Business, Economic Development, and Tourism pursuant to Act 240, SLH 2006, "Hydrogen Investment Capital Special Fund Fiscal Year 2008-2009: Measures of Effectiveness of the Renewable Hydrogen Program."

Gov. Msg. No. 600, dated April 14, 2009, transmitting the Hawaii 3Rs School Repair and Maintenance Fund Report, prepared by the Department of Education pursuant to Section 302A-1502.4, HRS.

Gov. Msg. No. 601, dated April 14, 2009, transmitting the March, 2009 Report on the Medicaid School-based Claiming Program, prepared by the Department of Education pursuant to Act 141, SLH 2005.

## HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 391 to 394) were read by the Clerk and were disposed of as follows:

Hse. Com. No. 391, informing the Senate that on April 7, 2009, the House disagreed to the amendments proposed by the Senate to the following House Bills:

H.B. No. 632, H.D. 1 (S.D. 1),  
H.B. No. 1061, H.D. 1 (S.D. 1), and  
H.B. No. 1075 (S.D. 1),

was placed on file.

Hse. Com. No. 392, returning S.B. No. 886, S.D. 1, as amended in H.D. 1, which passed Third Reading in the House of Representatives on April 7, 2009, was placed on file.

By unanimous consent, action on S.B. No. 886, S.D. 1 (H.D. 1), entitled: "A BILL FOR AN ACT RELATING TO

BUSINESS REGISTRATION," was deferred until Thursday, April 9, 2009.

Hse. Com. No. 393, returning S.B. No. 1055, as amended in H.D. 1, which passed Third Reading in the House of Representatives on April 7, 2009, was placed on file.

By unanimous consent, action on S.B. No. 1055 (H.D. 1), entitled: "A BILL FOR AN ACT RELATING TO HARBORS," was deferred until Thursday, April 9, 2009.

Hse. Com. No. 394, returning S.C.R. No. 47, S.D. 1, as amended in H.D. 1, which was adopted by the House of Representatives on April 7, 2009, was placed on file.

By unanimous consent, action on S.C.R. No. 47, S.D. 1 (H.D. 1), entitled: "SENATE CONCURRENT RESOLUTION PROCLAIMING 2009 AS THE YEAR OF THE NONCOMMISSIONED OFFICER CORPS OF THE UNITED STATES ARMY," was deferred until Thursday, April 9, 2009.

## STANDING COMMITTEE REPORTS

Senator Gabbard, for the Committee on Energy and Environment, presented a report (Stand. Com. Rep. No. 1186) recommending that S.C.R. No. 89, as amended in S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1186 and S.C.R. No. 89, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE CLEAN UP AND INVESTIGATION OF ILLEGAL DUMPING AND ILLEGAL STRUCTURES AT LAUMAILE STREET IN KALIHI AND THE DEVELOPMENT AND IMPLEMENTATION OF MEASURES TO PREVENT ILLEGAL DUMPING AND ILLEGAL STRUCTURES IN THE AREA," was deferred until Thursday, April 9, 2009.

Senator Gabbard, for the Committee on Energy and Environment, presented a report (Stand. Com. Rep. No. 1187) recommending that S.R. No. 55, as amended in S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1187 and S.R. No. 55, S.D. 1, entitled: "SENATE RESOLUTION REQUESTING THE CLEAN UP AND INVESTIGATION OF ILLEGAL DUMPING AND ILLEGAL STRUCTURES AT LAUMAILE STREET IN KALIHI AND THE DEVELOPMENT AND IMPLEMENTATION OF MEASURES TO PREVENT ILLEGAL DUMPING AND ILLEGAL STRUCTURES IN THE AREA," was deferred until Thursday, April 9, 2009.

## ORDER OF THE DAY

## AGREE/DISAGREE

MATTERS DEFERRED FROM  
TUESDAY, APRIL 7, 2009

S.B. No. 58, S.D. 2 (H.D. 1):

On motion by Senator Sakamoto, seconded by Senator Slom and carried, the Senate disagreed to the amendments proposed by the House to S.B. No. 58, S.D. 2, and requested a conference on the subject matter thereof.

S.B. No. 203, S.D. 2 (H.D. 1):

On motion by Senator Sakamoto, seconded by Senator Slom and carried, the Senate disagreed to the amendments proposed by the House to S.B. No. 203, S.D. 2, and requested a conference on the subject matter thereof.

S.B. No. 848 (H.D. 1):

On motion by Senator Sakamoto, seconded by Senator Slom and carried, the Senate disagreed to the amendments proposed by the House to S.B. No. 848, and requested a conference on the subject matter thereof.

S.B. No. 940, S.D. 1 (H.D. 1):

On motion by Senator Sakamoto, seconded by Senator Slom and carried, the Senate disagreed to the amendments proposed by the House to S.B. No. 940, S.D. 1, and requested a conference on the subject matter thereof.

S.B. No. 1195, S.D. 1 (H.D. 2):

On motion by Senator Sakamoto, seconded by Senator Slom and carried, the Senate disagreed to the amendments proposed by the House to S.B. No. 1195, S.D. 1, and requested a conference on the subject matter thereof.

At this time, the Chair said:

“Conferees will be named in accordance with the action sheet to be distributed to your offices at a later date.”

#### ADVISE AND CONSENT

Stand. Com. Rep. No. 1176 (Gov. Msg. No. 372):

Senator Kim moved that Stand. Com. Rep. No. 1176 be received and placed on file, seconded by Senator Tsutsui and carried.

Senator Kim then moved that the Senate advise and consent to the nomination of JOSE R. DIOGO to the Board of Taxation Review, 4th Taxation District (Kaua‘i), term to expire June 30, 2013, seconded by Senator Tsutsui.

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. 1177 (Gov. Msg. No. 373):

Senator Kim moved that Stand. Com. Rep. No. 1177 be received and placed on file, seconded by Senator Tsutsui and carried.

Senator Kim then moved that the Senate advise and consent to the nomination of RONALD A. KAWAHARA to the Board of Taxation Review, 2nd Taxation District (Maui), term to expire June 30, 2013, seconded by Senator Tsutsui.

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. 1178 (Gov. Msg. No. 374):

Senator Kim moved that Stand. Com. Rep. No. 1178 be received and placed on file, seconded by Senator Tsutsui and carried.

Senator Kim then moved that the Senate advise and consent to the nomination of MARIA J. LOWDER to the Board of Taxation Review, 1st Taxation District (Oahu), term to expire June 30, 2013, seconded by Senator Tsutsui.

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. 1179 (Gov. Msg. No. 515):

Senator Hee moved that Stand. Com. Rep. No. 1179 be received and placed on file, seconded by Senator Tokuda and carried.

Senator Hee then moved that the Senate advise and consent to the nomination of CLARK S. HASHIMOTO to the Board of Agriculture, term to expire June 30, 2013, seconded by Senator Tokuda.

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

Ayes, 25. Noes, none.

#### ADOPTION OF RESOLUTIONS

#### MATTERS DEFERRED FROM TUESDAY, APRIL 7, 2009

Stand. Com. Rep. No. 1180 (S.C.R. No. 64, S.D. 1):

On motion by Senator Sakamoto, seconded by Senator Slom and carried, the report of the Committee was adopted and S.C.R. No. 64, S.D. 1, entitled: “SENATE CONCURRENT RESOLUTION REQUESTING EACH JURISDICTION WITHIN THE STATE OF HAWAII TO SUBMIT PERIODIC REPRICING REVIEWS, AS REQUIRED UNDER SECTION 89-9, HAWAII REVISED STATUTES,” was adopted.

Stand. Com. Rep. No. 1181 (S.R. No. 38, S.D. 1):

On motion by Senator Sakamoto, seconded by Senator Slom and carried, the report of the Committee was adopted and S.R. No. 38, S.D. 1, entitled: “SENATE RESOLUTION REQUESTING EACH JURISDICTION WITHIN THE STATE OF HAWAII TO SUBMIT PERIODIC REPRICING REVIEWS, AS REQUIRED UNDER SECTION 89-9, HAWAII REVISED STATUTES,” was adopted.

Stand. Com. Rep. No. 1182 (S.C.R. No. 67, S.D. 1):

On motion by Senator Sakamoto, seconded by Senator Slom and carried, the report of the Committee was adopted and S.C.R. No. 67, S.D. 1, entitled: “SENATE CONCURRENT RESOLUTION REQUESTING THE HOUSE AND SENATE COMMITTEES ON LABOR TO CONDUCT JOINT HEARINGS TO ASSESS THE PERFORMANCE OF THE BOARD OF TRUSTEES OF THE DEFERRED COMPENSATION PLAN AND PLAN ADMINISTRATORS, AND TO RECOMMEND APPROPRIATE MEANS TO RESOLVE COMPLAINTS BY PLAN MEMBERS,” was adopted.

Stand. Com. Rep. No. 1183 (S.R. No. 41, S.D. 1):

On motion by Senator Sakamoto, seconded by Senator Slom and carried, the report of the Committee was adopted and S.R. No. 41, S.D. 1, entitled: “SENATE RESOLUTION REQUESTING THE SENATE COMMITTEE ON LABOR TO CONDUCT A HEARING TO ASSESS THE PERFORMANCE OF THE BOARD OF TRUSTEES OF THE DEFERRED COMPENSATION PLAN AND PLAN ADMINISTRATORS, AND TO RECOMMEND APPROPRIATE MEANS TO RESOLVE COMPLAINTS BY PLAN MEMBERS,” was adopted.

#### THIRD READING

H.B. No. 593, H.D. 2, S.D. 1:

On motion by Senator Hee, seconded by Senator Tokuda and carried, H.B. No. 593, H.D. 2, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO SHORELINE SETBACKS,” passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

H.B. No. 1141, H.D. 1, S.D. 1:

Senator Hee moved that H.B. No. 1141, H.D. 1, S.D. 1 pass Third Reading, seconded by Senator Fukunaga.

Senator Hemmings rose to speak in support of the measure and stated:

“I guess if I was a prudent politician I’d be voting against this bill because some constituencies have testified against it, including the Kailua Neighborhood Board. I find that in Kailua we have to assume some of the responsibilities of contributing to the economy like everybody else. We’re spending a tremendous amount of money promoting the film industry in Hawai’i, and if we start carving out niches for whatever reasons where they cannot film, sooner or later every community will ban the film industry, and I don’t think that will be constructive for anyone. So, I’ll be voting in favor of this. Thank you.”

The motion was put by the Chair and carried, H.B. No. 1141, H.D. 1, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THRILL CRAFT OPERATION,” passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1185 (H.B. No. 1436, H.D. 1, S.D. 1):

On motion by Senator Hee, seconded by Senator Tokuda and carried, H.B. No. 1436, H.D. 1, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO AGRICULTURE,” passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Senator Gabbard, Chair of the Committee on Energy and Environment, requested that the referral of H.B. No. 1663, H.D. 1, S.D. 1 to the Committee on Energy and Environment be waived.

Senator Gabbard noted:

“Madam President, your Committee previously filed Standing Committee Report No. 1059 on March 27, 2009, recommending that H.B. No. 1663, S.D. 1, pass Second Reading and be referred to the Committee on Water, Land, Agriculture, and Hawaiian Affairs. On March 30<sup>th</sup>, H.B. No. 1663, S.D. 1, was re-referred to your Committee on Energy and Environment to remove the subsequent referral to the Committee on Water, Land, Agriculture, and Hawaiian Affairs and bring the measure to the floor. Both committees to which the bill was originally referred agreed to this re-referral in order to position the bill to meet the second crossover deadline.”

The Chair granted the waiver.

On motion by Senator Gabbard, seconded by Senator English and carried, H.B. No. 1663, H.D. 1, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO TARO SECURITY,” was placed on the calendar for Third Reading on Thursday, April 9, 2009.

Senator Takamine, Chair of the Committee on Labor, requested a waiver of the notice requirement pursuant to Senate Rule 21 for H.B. No. 31.

Senator Takamine noted:

“This measure was deferred for decision-making to 2:45 p.m. tomorrow, 4/9, which will be too late for it to be placed on that day’s floor session agenda. Because it is a single referral measure, it must pass Second Reading on Thursday 4/9 in order to be placed on the Calendar for Third Reading on Tuesday 4/14.”

The Chair granted the waiver.

At this time, the Chair made the following announcements:

“The deadline for filing House bills that need to pass Second Reading is 6:00 p.m. tonight.

“Referrals and re-referrals are made in accordance with the Supplemental Order of the Day that may be distributed to your offices later this afternoon.”

**RE-REFERRAL OF MESSAGES FROM THE GOVERNOR**

The Chair re-referred the following Governor’s Messages that were received:

G.M. No.	Re-referred to:
Gov. Msg. No. 567	Committee on Transportation, International and Intergovernmental Affairs
Gov. Msg. No. 589	Committee on Economic Development and Technology
Gov. Msg. No. 590	Committee on Economic Development and Technology
Gov. Msg. No. 591	Committee on Economic Development and Technology
Gov. Msg. No. 592	Committee on Economic Development and Technology

**ADJOURNMENT**

At 11:59 a.m., on motion by Senator Sakamoto, seconded by Senator Slom and carried, the Senate adjourned until 11:30 a.m., Thursday, April 9, 2009.