

FORTIETH DAY

Thursday, March 31, 2011

The Senate of the Twenty-Sixth Legislature of the State of Hawai'i, Regular Session of 2011, convened at 11:34 a.m. with the President in the Chair.

The Roll was called showing all Senators present with the exception of Senator Galuteria who was excused.

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

At this time, Senators Taniguchi and Gabbard recognized and congratulated Patrick Gartside—web developer, popular rock musician and free-lance writer—for his extreme generosity and self-sacrifice for the benefit of others.

Senators Kidani, Fukunaga, and Dela Cruz recognized and congratulated the CBS executive team, producers, cast, and crew of *Hawaii Five-0* for an excellent performance during its first season, and extended warmest aloha and sincere best wishes for the show's long-term success. Representing *Hawaii Five-0* were Senior Vice President of Current Programming for CBS Glenn Geller; Executive Producer Peter Lenkov; cast members Alex O'Loughlin (Steve McGarrett) and Daniel Dae Kim (Chin Ho Kelly); and entertainer Al Harrington (Ben Kokua on the original production). Also recognized were Co-Executive Producer Paul Zbyszewski; Co-Executive Producer and Director Brad Turner; Producer and Unit Production Manager Jeff Downer; Production Supervisor Angela Laprete; Coordinating Producer Jessica Petelle; Unit Publicist Erika Kauffman; Diana Jackson, Assistant to Alex O'Loughlin; Mia Kim, wife of Daniel Dae Kim; Walea Constantinau, Honolulu Film Commission; and Georgia Skinner of the Administrative Creative Industries Division, State Film Office.

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

"I would like to encompass the words of Senator Kidani, and she asked me to be a part of this by presenting the certificate to Daniel Dae Kim. Mr. President, as one of the kūpuna of the Senate, myself and Senator Slom here, I would just like to say that I was an extra on the original show back in the 1960s. I did not rise to the level of Al Harrington as Ben Kokua, but I nonetheless was an extra, and I'm glad to see that the new show is doing very well. And if they need another elder or kupuna in the future, please consider me, but consider Senator Kidani first. Thank you very much."

At 11:55 a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:01 p.m.

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 648 to 650) were read by the Clerk and were disposed of as follows:

Gov. Msg. No. 648, informing the Senate that on March 28, 2011, the Governor withdrew RUSSELL CASTAGNARO, Gubernatorial Nominee to the High Technology Development Corporation Board of Directors, from consideration by the Senate (Gov. Msg. No. 542), was placed on file.

Gov. Msg. No. 649, submitting for consideration and confirmation as the Director of the State Health Planning and Development Agency, the nomination of ROMALA RADCLIFFE, term to expire June 30, 2011, was referred to the Committee on Health.

Gov. Msg. No. 650, submitting for consideration and confirmation as the Director of the State Health Planning and Development Agency, the nomination of ROMALA RADCLIFFE, term to expire June 30, 2015, was referred to the Committee on Health.

DEPARTMENTAL COMMUNICATIONS

The following communication (Dept. Com. Nos. 81 and 82) were read by the Clerk and were placed on file:

Dept. Com. No. 81, from the State Auditor dated March 11, 2011, transmitting the Report on Internal Control over Financial Reporting and on Compliance and Other Matters.

Dept. Com. No. 82, from the Department of Budget and Finance dated March 16, 2011, transmitting a Report on Transfers from Non-General Funds to General Fund FY 11, February 17, 2011, pursuant to Section 37-46, HRS.

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 363 to 365) were read by the Clerk and were disposed of as follows:

Hse. Com. No. 363, transmitting H.C.R. No. 11, H.D. 1, which was adopted by the House of Representatives on March 29, 2011, was placed on file.

By unanimous consent, H.C.R. No. 11, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE GOVERNOR OF HAWAII TO INVITE ALL ASIA-PACIFIC ECONOMIC COOPERATION COUNTRIES TO ESTABLISH HONORARY CONSULS IN HAWAII BEFORE THE 2011 ASIA-PACIFIC ECONOMIC COOPERATION SUMMIT," was referred jointly to the Committee on Economic Development and Technology and the Committee on Transportation and International Affairs.

Hse. Com. No. 364, transmitting H.C.R. No. 12, H.D. 1, which was adopted by the House of Representatives on March 29, 2011, was placed on file.

By unanimous consent, H.C.R. No. 12, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION URGING CONGRESS AND THE DEPARTMENT OF STATE TO HOST MORE INTERNATIONAL CONFERENCES IN HAWAII," was referred jointly to the Committee on Economic Development and Technology and the Committee on Transportation and International Affairs.

Hse. Com. No. 365, informing the Senate that on March 29, 2011, the House disagreed to the amendments proposed by the Senate to the following House bills:

H.B. No. 319, H.D. 1 (S.D. 1); and
H.B. No. 1654, H.D. 1 (S.D. 1),

was placed on file.

STANDING COMMITTEE REPORTS

Senator Ige, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 990) recommending that H.B. No. 79, H.D. 1, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.B. No. 79, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO STATE FUNDS," passed Second Reading and was placed on the calendar for Third Reading on Monday, April 4, 2011.

Senator Tokuda, for the Committee on Education, presented a report (Stand. Com. Rep. No. 991) recommending that H.B. No. 338, H.D. 2, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.B. No. 338, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Second Reading and was placed on the calendar for Third Reading on Monday, April 4, 2011.

Senator Tokuda, for the Committee on Education, presented a report (Stand. Com. Rep. No. 992) recommending that H.B. No. 1326, H.D. 2, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.B. No. 1326, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," passed Second Reading and was placed on the calendar for Third Reading on Monday, April 4, 2011.

Senator Ige, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 993) recommending that H.B. No. 848, H.D. 2, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.B. No. 848, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE GENERAL EXCISE TAX," passed Second Reading and was placed on the calendar for Third Reading on Monday, April 4, 2011.

Senator Dela Cruz, for the Committee on Water, Land, and Housing, presented a report (Stand. Com. Rep. No. 994) recommending that H.B. No. 931, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.B. No. 931, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SMALL BOAT HARBORS," passed Second Reading and was placed on the calendar for Third Reading on Monday, April 4, 2011.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 995) recommending that S.C.R. No. 8, as amended in S.D. 1, be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and S.C.R. No. 8, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE AUDITOR TO ASSESS THE SOCIAL AND FINANCIAL EFFECTS OF REQUIRING HEALTH INSURERS TO PROVIDE COVERAGE FOR NATUROPATHIC MEDICINE," was referred to the Committee on Ways and Means.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 996) recommending that S.C.R. No. 23, as amended in S.D. 1, be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and S.C.R. No. 23, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE AUDITOR TO ASSESS THE SOCIAL AND FINANCIAL EFFECTS OF REQUIRING HEALTH INSURERS TO PROVIDE COVERAGE FOR

PHYSICAL THERAPY THAT IS PRESCRIBED BY A BOARD-CERTIFIED SURGEON FOR CHRONIC PAIN," was referred to the Committee on Ways and Means.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 997) recommending that S.C.R. No. 24, as amended in S.D. 1, be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and S.C.R. No. 24, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE AUDITOR TO ASSESS THE SOCIAL AND FINANCIAL EFFECTS OF REQUIRING HEALTH INSURERS TO PROVIDE COVERAGE FOR CERTAIN TOBACCO USE CESSATION METHODS," was referred to the Committee on Ways and Means.

Senator Tokuda, for the Committee on Education, presented a report (Stand. Com. Rep. No. 998) recommending that S.C.R. No. 130, as amended in S.D. 1, be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and S.C.R. No. 130, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF EDUCATION TO CONSIDER USING THE PROPERTY LOCATED ON YOUNG STREET, ADJACENT TO THE ACADEMY ART CENTER, AS AN ART RESOURCE CENTER FOR TEACHERS," was referred to the Committee on Ways and Means.

Senator Tokuda, for the Committee on Education, presented a report (Stand. Com. Rep. No. 999) recommending that S.C.R. No. 158 be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and S.C.R. No. 158, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING A FISCAL AND COMPLIANCE AUDIT OF THE STATE EDUCATIONAL FACILITIES IMPROVEMENT SPECIAL FUND," was referred to the Committee on Ways and Means.

Senators Espero and Green, for the Committee on Public Safety, Government Operations, and Military Affairs and the Committee on Health, presented a joint report (Stand. Com. Rep. No. 1000) recommending that S.C.R. No. 53, as amended in S.D. 1, be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the joint report of the Committees was adopted and S.C.R. No. 53, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION STRONGLY URGING THE UNITED STATES DEPARTMENT OF THE INTERIOR AND THE UNITED STATES CONGRESS TO PROVIDE ADDITIONAL FEDERAL AID TO THE STATE OF HAWAII FOR THE PROVISION OF VARIOUS STATE SERVICES TO MIGRANTS FROM THE COMPACT OF FREE ASSOCIATION NATIONS; DEEM MIGRANTS ELIGIBLE TO RECEIVE FEDERALLY FUNDED FINANCIAL AND MEDICAL ASSISTANCE; AND PROVIDE DIALYSIS AND CHEMOTHERAPY CENTERS IN MICRONESIA AND ALL AREAS WITHIN THE COMPACT OF FREE ASSOCIATION NATIONS," was referred to the Committee on Ways and Means.

Senators Espero and Green, for the Committee on Public Safety, Government Operations, and Military Affairs and the Committee on Health, presented a joint report (Stand. Com. Rep. No. 1001), recommending that S.R. No. 27, as amended in S.D. 1, be referred to the Committee on Ways and Means.

On motion by Senator Espero, seconded by Senator Slom and carried, the joint report of the Committees was adopted and S.R. No. 27, S.D. 1, entitled: "SENATE RESOLUTION STRONGLY URGING THE UNITED STATES DEPARTMENT OF THE INTERIOR AND THE UNITED STATES CONGRESS TO PROVIDE ADDITIONAL FEDERAL AID TO THE STATE OF HAWAII FOR THE PROVISION OF VARIOUS STATE SERVICES TO MIGRANTS FROM THE COMPACT OF FREE ASSOCIATION NATIONS; DEEM MIGRANTS ELIGIBLE TO RECEIVE FEDERALLY FUNDED FINANCIAL AND MEDICAL ASSISTANCE; AND PROVIDE DIALYSIS AND CHEMOTHERAPY CENTERS IN MICRONESIA AND ALL AREAS WITHIN THE COMPACT OF FREE ASSOCIATION NATIONS," was referred to the Committee on Ways and Means.

Senators Nishihara and Dela Cruz, for the Committee on Agriculture and the Committee on Water, Land, and Housing, presented a joint report (Stand. Com. Rep. No. 1002), recommending that S.R. No. 18, as amended in S.D. 1, be referred to the Committee on Public Safety, Government Operations, and Military Affairs.

On motion by Senator Espero, seconded by Senator Slom and carried, the joint report of the Committees was adopted and S.R. No. 18, S.D. 1, entitled: "SENATE RESOLUTION URGING THE CITY AND COUNTY OF HONOLULU TO EXPEND MONIES ALREADY DEDICATED IN ITS 2010-2011 EXECUTIVE OPERATING BUDGET TO CONDUCT A STUDY TO MAP AND DETERMINE IMPORTANT AGRICULTURAL LANDS ON OAHU, FOR THAT PURPOSE," was referred to the Committee on Public Safety, Government Operations, and Military Affairs.

Senator Tokuda, for the Committee on Education, presented a report (Stand. Com. Rep. No. 1003) recommending that S.C.R. No. 79, as amended in S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1003 and S.C.R. No. 79, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE BOARD OF EDUCATION TO REVIEW ITS BY-LAWS AND POLICIES AND APPLICABLE ADMINISTRATIVE RULES AND STATUTES TO IMPROVE THE EFFECTIVENESS OF THE EDUCATIONAL DELIVERY SYSTEM," was deferred until Friday, April 1, 2011.

Senators Gabbard and Tokuda, for the Committee on Energy and Environment and the Committee on Education, presented a joint report (Stand. Com. Rep. No. 1004) recommending that S.C.R. No. 68, as amended in S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1004 and S.C.R. No. 68, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION URGING THE DEPARTMENT OF EDUCATION TO INSTALL RENEWABLE ENERGY FACILITIES ON THE PREMISES OF AS MANY PUBLIC SCHOOLS AS IS FEASIBLE AND CONSIDER LEASING SCHOOL PREMISES TO A POWER PRODUCER AND ENTER INTO POWER PURCHASE AGREEMENTS TO PURCHASE ELECTRICITY FROM THE PRODUCER," was deferred until Friday, April 1, 2011.

Senator Chun Oakland, for the Committee on Human Services, presented a report (Stand. Com. Rep. No. 1005) recommending that the Senate advise and consent to the nomination of JASON T. ESPERO to the Hawai'i Public Housing Authority Board of Directors, in accordance with Gov. Msg. No. 551.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1005 and Gov. Msg. No. 551 was deferred until Friday, April 1, 2011.

Senator English, for the Committee on Transportation and International Affairs, presented a report (Stand. Com. Rep. No. 1006) recommending that the Senate advise and consent to the nominations to the Commission on Transportation of the following:

JOHN A. ERVIN, in accordance with Gov. Msg. No. 592; and

SHAWN SMITH, in accordance with Gov. Msg. No. 593.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1006 and Gov. Msg. Nos. 592 and 593 was deferred until Friday, April 1, 2011.

ORDER OF THE DAY

AGREE/DISAGREE

MATTERS DEFERRED FROM TUESDAY, MARCH 29, 2011

S.B. No. 1069, S.D. 1 (H.D. 1):

On motion by Senator Espero, seconded by Senator Slom and carried, the Senate disagreed to the amendments proposed by the House to S.B. No. 1069, S.D. 1, and requested a conference on the subject matter thereof.

S.B. No. 1489, S.D. 1 (H.D. 1):

On motion by Senator Espero, seconded by Senator Slom and carried, the Senate disagreed to the amendments proposed by the House to S.B. No. 1489, S.D. 1, and requested a conference on the subject matter thereof.

At this time, the Chair made the following announcement:

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

RE-REFERRAL OF A HOUSE BILL

The Chair re-referred the following House bill that was received:

H.B. No.: Re-referred to:

H.B. No. 922, S.D. 1 Committee on Hawaiian Affairs, then jointly to the Committee on Judiciary and Labor and the Committee on Ways and Means

RE-REFERRAL OF A SENATE RESOLUTION

The Chair re-referred the following resolution that was offered:

S.R. No.: Re-referred to:

S.R. No. 64 Jointly to the Committee on Public Safety, Government Operations, and Military Affairs and the Committee on Judiciary and Labor

Senator Dela Cruz, Chair of the Committee on Water, Land, and Housing, requested a waiver of the notice requirement pursuant to Senate Rule 21 for S.C.R. No. 85 and S.R. No. 70.

Senator Dela Cruz noted:

"We are requesting this waiver to hold a public hearing tomorrow in order to meet the First Lateral deadline for Senate concurrent resolutions."

The Chair granted the waiver.

Senator Shimabukuro, Vice Chair of the Committee on Judiciary and Labor, requested a waiver of the notice requirement pursuant to Senate Rule 21 for S.C.R. No. 155.

Senator Shimabukuro noted:

“I am requesting this waiver to hold a public hearing tomorrow in order to meet the First Lateral deadline for Senate concurrent resolutions.”

The Chair granted the waiver.

ADJOURNMENT

At 12:06 p.m., on motion by Senator Espero, seconded by Senator Slom and carried, the Senate adjourned until 11:30 a.m., Friday, April 1, 2011.