

FORTY-FOURTH DAY

Wednesday, April 6, 2011

The Senate of the Twenty-Sixth Legislature of the State of Hawai'i, Regular Session of 2011, convened at 11:40 a.m. with the President in the Chair.

The Roll was called showing all Senators present with the exception of Senators Ige and Kahele who were excused.

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

At this time, Senator Taniguchi, recognized and congratulated Alvin Kuo Wong for being selected as the Happiest Person in America by *The New York Times* and the world-renowned Gallup Poll. Accompanying Mr. Wong was Mrs. Trudy Schandler-Wong, his wife of 35 years, as well as his daughter Shaaroni Wong and hānai daughter Annie Wong who were seated in the gallery.

Senator Kim rose and said:

"I just wanted to add to the presentation and just to say that I think the reason why Mr. Wong is the Happiest Person in America is because he has his wife and she is the reason for him being the Happiest Man in America."

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

"I just wanted to make a short comment on proceedings on the opposite end of the world. At noon today in the House of Representatives, Kaua'i has a new representative from District 14—former Councilmember Derek Kawakami, who was here in our Senate gallery a few short months ago as a councilmember lobbying, and he will be sworn in today. Thank you."

At 11:44 a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:49 a.m.

Senator Kouchi introduced his wife Joy who was seated in the gallery, and thanked the members on her behalf for their support during her recovery from surgery.

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 377 to 385) were read by the Clerk and were disposed of as follows:

Hse. Com. No. 377, returning S.B. No. 124, S.D. 1, which passed Third Reading in the House of Representatives on April 5, 2011, was placed on file.

Hse. Com. No. 378, returning S.B. No. 704, S.D. 2, which passed Third Reading in the House of Representatives on April 5, 2011, was placed on file.

Hse. Com. No. 379, returning S.B. No. 1346, S.D. 2, which passed Third Reading in the House of Representatives on April 5, 2011, was placed on file.

Hse. Com. No. 380, transmitting H.C.R. No. 147, which was adopted by the House of Representatives on April 5, 2011, was placed on file.

By unanimous consent, H.C.R. No. 147, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE UNITED STATES CONGRESS TO APPROVE THE UNITED STATES-KOREA TRADE AGREEMENT," was deferred.

Hse. Com. No. 381, transmitting H.C.R. No. 234, which was adopted by the House of Representatives on April 5, 2011, was placed on file.

By unanimous consent, H.C.R. No. 234, entitled: "HOUSE CONCURRENT RESOLUTION ADOPTING THE UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION'S DECLARATION ON A CULTURE OF PEACE," was deferred.

Hse. Com. No. 382, transmitting H.C.R. No. 266, H.D. 1, which was adopted by the House of Representatives on April 5, 2011, was placed on file.

By unanimous consent, H.C.R. No. 266, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION RECOGNIZING OCTOBER OF EACH YEAR AS 'DOWN SYNDROME AWARENESS MONTH' IN HAWAII," was deferred.

Hse. Com. No. 383, transmitting H.C.R. No. 273, which was adopted by the House of Representatives on April 5, 2011, was placed on file.

By unanimous consent, H.C.R. No. 273, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE SCHOOL OF TRAVEL INDUSTRY MANAGEMENT AT THE UNIVERSITY OF HAWAII AT MANOA TO DEVELOP ENHANCEMENTS FOR THE TOURISM-RELATED CAPABILITIES OF THE UNIVERSITY OF HAWAII ECONOMIC RESEARCH ORGANIZATION DATA PORTAL," was deferred.

Hse. Com. No. 384, transmitting H.C.R. No. 309, H.D. 1, which was adopted by the House of Representatives on April 5, 2011, was placed on file.

By unanimous consent, H.C.R. No. 309, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE GOVERNOR TO PROCLAIM THE SECOND WEEK OF AUGUST AS 'NATIONAL ASSISTANCE DOG WEEK'," was deferred.

Hse. Com. No. 385, informing the Senate that on April 5, 2011, the House disagreed to the amendments proposed by the Senate to the following House bills:

H.B. No. 79, H.D. 1 (S.D. 1);
H.B. No. 338, H.D. 2 (S.D. 1);
H.B. No. 848, H.D. 2 (S.D. 1);
H.B. No. 931 (S.D. 1); and
H.B. No. 1326, H.D. 2 (S.D. 1),

was placed on file.

JUDICIARY COMMUNICATION

The following communication from the Judiciary (Jud. Com. No. 1) was read by the Clerk and was disposed of as follows:

Jud. Com. No. 1, submitting for consideration and confirmation to the District Court of the Fifth Circuit, State of Hawai'i, gubernatorial nominee, EDMUND D. ACOBA, for a term of six years, was referred to the Committee on Judiciary and Labor.

STANDING COMMITTEE REPORTS

Senators Baker and Green, for the Committee on Commerce and Consumer Protection and the Committee on Health, presented a joint report (Stand. Com. Rep. No. 1057) recommending that H.B. No. 1053, 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 joint report of the Committees was adopted and H.B. No. 1053, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO NATIONAL DENTAL HYGIENE EXAMINATIONS," passed Second Reading and was placed on the calendar for Third Reading on Friday, April 8, 2011.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 1058) recommending that H.B. No. 235, H.D. 2, S.D. 1, as amended in S.D. 2, pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 1058 and H.B. No. 235, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO LIMITED LIABILITY COMPANIES," was deferred until Friday, April 8, 2011.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 1059) recommending that the Senate advise and consent to the nominations to the Real Estate Commission of the following:

ROWENA COBB, in accordance with Gov. Msg. No. 537;

NIKKI SENTER, in accordance with Gov. Msg. No. 538; and

AILEEN WADA, in accordance with Gov. Msg. No. 539.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1059 and Gov. Msg. Nos. 537, 538 and 539 was deferred until Thursday, April 7, 2011.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 1060) recommending that the Senate advise and consent to the nominations to the State Board of Chiropractic Examiners of the following:

ROBERT KLEIN, in accordance with Gov. Msg. No. 528; and

JAMES PLEISS, in accordance with Gov. Msg. No. 529.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1060 and Gov. Msg. Nos. 528 and 529 was deferred until Thursday, April 7, 2011.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 1061) recommending that the Senate advise and consent to the nominations to the Board of Electricians and Plumbers of the following:

PETER L. AKAMU, in accordance with Gov. Msg. No. 533; and

MATT BRADY, in accordance with Gov. Msg. No. 534.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1061 and Gov. Msg. Nos. 533 and 534 was deferred until Thursday, April 7, 2011.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 1062) recommending that the Senate advise and consent to the nomination of RONALD S. WEINBERG to the Pest Control Board, in accordance with Gov. Msg. No. 536.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1062 and Gov. Msg. No. 536 was deferred until Thursday, April 7, 2011.

ORDER OF THE DAY

AGREE/DISAGREE

MATTERS DEFERRED FROM TUESDAY, APRIL 5, 2011

S.B. No. 105, S.D. 2 (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. 105, S.D. 2, and requested a conference on the subject matter thereof.

S.B. No. 1067, S.D. 1 (H.D. 2):

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. 1067, S.D. 1 and requested a conference on the subject matter thereof.

S.B. No. 1533, 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. 1533, S.D. 1, and requested a conference on the subject matter thereof.

ADVISE AND CONSENT

Stand. Com. Rep. No. 1056 (Gov. Msg. No. 535):

Senator Baker moved that Stand. Com. Rep. No. 1056 be received and placed on file, seconded by Senator Taniguchi and carried.

Senator Baker then moved that the Senate advise and consent to the nomination of CARL D. JOHNSON to the Motor Vehicle Industry Licensing Board, term to expire June 30, 2015, seconded by Senator Taniguchi.

Senator Baker rose in support of the nominee and said:

"I just wanted to note the committee's strong support for this individual. Mr. Johnson exemplifies the kind of talent we find in the public and their willingness to take their time and talent to serve on these boards as members of the public, so I urge his confirmation."

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

Ayes, 22. Noes, none. Excused, 3 (Ige, Kahele, Shimabukuro).

ADOPTION OF RESOLUTIONS

MATTERS DEFERRED FROM TUESDAY, APRIL 5, 2011

Stand. Com. Rep. No. 1052 (S.C.R. No. 134, S.D. 1):

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and S.C.R. No. 134, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE CONVENING OF A WORKING GROUP TO INVESTIGATE THE CREATION OF A LOCALLY-FOCUSED, HAWAII-BASED STOCK EXCHANGE," was adopted.

Stand. Com. Rep. No. 1053 (S.C.R. No. 48):

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and S.C.R. No. 48, entitled: "SENATE CONCURRENT RESOLUTION URGING CONGRESS TO SUPPORT FEDERAL LEGISLATION PROHIBITING HEALTH INSURERS FROM DENYING COVERAGE TO VICTIMS

OF DOMESTIC VIOLENCE ON THE GROUNDS THAT IT IS A PRE-EXISTING CONDITION,” was adopted.

Stand. Com. Rep. No. 1054 (S.C.R. No. 167, S.D. 1):

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and S.C.R. No. 167, S.D. 1, entitled: “SENATE CONCURRENT RESOLUTION REQUESTING THAT THE CIVIL DEFENSE DIVISION OF THE HAWAII DEPARTMENT OF DEFENSE IS REQUESTED WORK WITH THE COUNTY CIVIL DEFENSE OR EMERGENCY MANAGEMENT AGENCIES TO EVALUATE THE APPROPRIATENESS OF TSUNAMI EVACUATION SITES IN THE STATE,” was adopted.

Stand. Com. Rep. No. 1055 (S.R. No. 103, S.D. 1):

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and S.R. No. 103, S.D. 1, entitled: “SENATE RESOLUTION REQUESTING THAT THE CIVIL DEFENSE DIVISION OF THE HAWAII DEPARTMENT OF DEFENSE IS REQUESTED WORK WITH THE COUNTY CIVIL DEFENSE OR EMERGENCY MANAGEMENT AGENCIES TO EVALUATE THE APPROPRIATENESS OF TSUNAMI EVACUATION SITES IN THE STATE,” was adopted.

THIRD READING

H.B. No. 1089, H.D. 1, S.D. 1:

Senator Kidani moved that H.B. No. 1089, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Chun Oakland.

Senator Slom rose in opposition to the measure and said:

“Every year we go through the same process, and every year it’s the same result. We are not conforming the Hawai’i tax code to the IRS. We are selectively conforming the tax code to the IRS, but when we look at the individual changes that are made and things that are adopted, we find that basically those things that are most beneficial to individuals and small businesses are not conformed to, they are specifically exempted. The one that I talk about each and every year is the fact that a personal exemption in Hawai’i is worth about one-third of the exemption given by the Internal Revenue Code. So, until we are truthful in saying we are going to conform and just pass a bill that says we adopt all of these measures, I will oppose it. Thank you.”

The motion was put by the Chair and carried, H.B. No. 1089, H.D. 1, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO CONFORMITY OF THE HAWAII INCOME TAX LAW TO THE INTERNAL REVENUE CODE,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 1 (Slom). Excused, 3 (Ige, Kahele, Shimabukuro).

At 11:54 a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:55 a.m.

Senator Kidani, Vice Chair of the Committee on Ways and Means, requested a waiver of the notice requirement pursuant to Senate Rule 21 for H.B. No. 794, H.D. 1.

Senator Kidani noted:

“We need to add this measure to our decision-making agenda in order to meet Friday’s Second Decking deadline.”

The Chair granted the waiver.

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

The Senate reconvened at 11:57 a.m.

At this time, the Chair made the following announcement:

“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.”

REFERRAL OF HOUSE CONCURRENT RESOLUTIONS

The President made the following committee assignments of House concurrent resolutions received on Thursday, March 31, 2011; Friday, April 1, 2011; and Monday, April 4, 2011:

H.C.R. No.:	Referred to:
H.C.R. No. 43	Jointly to the Committee on Transportation and International Affairs and the Committee on Public Safety, Government Operations, and Military Affairs
H.C.R. No. 54, H.D. 1	Jointly to the Committee on Public Safety, Government Operations, and Military Affairs and the Committee on Water, Land, and Housing
H.C.R. No. 60	Committee on Human Services
H.C.R. No. 134	Committee on Public Safety, Government Operations, and Military Affairs

RE-REFERRAL OF A MESSAGE FROM THE GOVERNOR

The Chair re-referred the following Governor’s Message that was received:

G.M. No.:	Re-referred to:
G.M. No. 733	Committee on Public Safety, Government Operations, and Military Affairs

ADJOURNMENT

At 11:58 a.m., on motion by Senator Espero, seconded by Senator Slom and carried, the Senate adjourned until 11:30 a.m., Thursday, April 7, 2011.