

FORTY-FIFTH DAY

Thursday, April 7, 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.

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

At this time, Senator Gabbard recognized and congratulated the many conservation entities and management partners of the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve (Papahānaumokuākea Marine National Monument) upon its 10th anniversary of remarkable marine protection including Buzzy Agard; William Aila, Chair of the Department of Land and Natural Resources; Laura Thompson of the Polynesian Voyaging Society; Tim Johns, CEO of Bishop Museum; Dave Raney of the Sierra Club; Rob Toonen of the Hawai'i Institute of Marine Biology; Robert Smith, former Superintendent of the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve; Linda Paul of the Hawaii Audubon Society; Athline Clark of the U.S. Army Corps of Engineers; and 'Aulani Wilhelm of Papahānaumokuākea Marine National Monument. Also recognized were key staff members and supporters including David Swatland, Hoku Johnson, Nai'a Lewis, Dave Graham, Cindy Hunter, Ruth Gates, Moani Pai, Noriko Shoji, Andy Collins, and Darcy Whitney who were seated in the gallery.

Senator Hee introduced Leslie Agard, daughter of Buzzy Agard, who was seated in the gallery. Senator Hee also paid tribute to kūpuna Buzzy Agard and Laura Thompson from a Hawaiian perspective, which holds that we are of the same flesh, bones, and blood as our kūpuna; we are all descendants of the famous wa'a kaulua (canoes) that travel over thousands of years and hundreds of generations; and that to the kūpuna alone belong the deep recesses of their mind and their life's journey for which we are privileged and grateful.

Senator Slom, on behalf of Senator Tokuda and himself, introduced a group of students from TeenPact Leadership Schools who were seated in the gallery with TeenPact CEO Peter Martin, Program Director Zachary Chambers, and local staff members Christa Brown and Robin Metcalf.

Senator Green, in honor of American Massage Therapy Association Day, introduced Pua Gillespie, Barbara Manni, and Mahana who were donating their money and time to give massages to support the Hawai'i Foodbank.

At 11:47 a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:53 a.m.

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 386 and 387) were read by the Clerk and were placed on file:

Hse. Com. No. 386, returning S.B. No. 27, S.D. 1, which passed Third Reading in the House of Representatives on April 6, 2011.

Hse. Com. No. 387, returning S.B. No. 1273, S.D. 1, which passed Third Reading in the House of Representatives on April 6, 2011.

JUDICIARY COMMUNICATIONS

The following communications from the Judiciary (Jud. Com. Nos. 2 to 5) were read by the Clerk and were disposed of as follows:

Jud. Com. No. 2, submitting for consideration and confirmation to the District Court of the First Circuit, State of Hawaii, Judicial Nominee, DEAN E. OCHIAI, for a term of six years, was referred to the Committee on Judiciary and Labor.

Jud. Com. No. 3, submitting for consideration and confirmation to the District Court of the First Circuit, State of Hawaii, Judicial Nominee, LANSON K. KUPAU, for a term of six years, was referred to the Committee on Judiciary and Labor.

Jud. Com. No. 4, submitting for consideration and confirmation to the District Court of the First Circuit, State of Hawaii, Judicial Nominee, MELANIE MITO MAY, for a term of six years, was referred to the Committee on Judiciary and Labor.

Jud. Com. No. 5, submitting for consideration and confirmation to the District Family Court of the First Circuit, State of Hawaii, Judicial Nominee, CATHERINE H. REMIGIO, for a term of six years, was referred to the Committee on Judiciary and Labor.

STANDING COMMITTEE REPORTS

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 1063) recommending that H.B. No. 320, 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. 320, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO BROKER PRICE OPINIONS," passed Second Reading and was placed on the calendar for Third Reading on Tuesday, April 12, 2011.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 1064) recommending that H.B. No. 112, H.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. 112, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CABLE TELEVISION SYSTEMS," passed Second Reading and was placed on the calendar for Third Reading on Friday, April 8, 2011.

Senator Espero, for the Committee on Public Safety, Government Operations, and Military Affairs, presented a report (Stand. Com. Rep. No. 1065) recommending that H.B. No. 1622, H.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. 1622, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HISTORIC PRESERVATION," passed Second Reading and was placed on the calendar for Third Reading on Friday, April 8, 2011.

Senator Espero, for the Committee on Public Safety, Government Operations, and Military Affairs, presented a report (Stand. Com. Rep. No. 1066) recommending that H.B.

No. 1087, H.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. 1087, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SAFETY," passed Second Reading and was placed on the calendar for Third Reading on Friday, April 8, 2011.

Senators Nishihara and Fukunaga, for the Committee on Agriculture and the Committee on Economic Development and Technology, presented a joint report (Stand. Com. Rep. No. 1067) recommending that S.C.R. No. 71, as amended in S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1067 and S.C.R. No. 71, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE CONVENING OF A WORKING GROUP TO REVIEW THE DUTIES AND RESPONSIBILITIES OF THE AGRIBUSINESS DEVELOPMENT CORPORATION AND MAKE RECOMMENDATIONS TO IMPROVE THE CORPORATION'S EFFICIENCY AND PROGRAMS TO BETTER ADDRESS CURRENT AND FUTURE AGRICULTURAL ISSUES," was deferred until Friday, April 8, 2011.

Senators Nishihara and Fukunaga, for the Committee on Agriculture and the Committee on Economic Development and Technology, presented a joint report (Stand. Com. Rep. No. 1068) recommending that S.R. No. 44, as amended in S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1068 and S.R. No. 44, S.D. 1, entitled: "SENATE RESOLUTION REQUESTING THE CONVENING OF A WORKING GROUP TO REVIEW THE DUTIES AND RESPONSIBILITIES OF THE AGRIBUSINESS DEVELOPMENT CORPORATION AND MAKE RECOMMENDATIONS TO IMPROVE THE CORPORATION'S EFFICIENCY AND PROGRAMS TO BETTER ADDRESS CURRENT AND FUTURE AGRICULTURAL ISSUES," was deferred until Friday, April 8, 2011.

Senators Tokuda and Gabbard, for the Committee on Education and the Committee on Energy and Environment, presented a joint report (Stand. Com. Rep. No. 1069) recommending that S.C.R. No. 69, as amended in S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1069 and S.C.R. No. 69, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF EDUCATION TO REPORT ITS PROGRESS ON THE INCORPORATION OF ENVIRONMENTAL CURRICULA INTO ITS STANDARDS-BASED SYSTEM AND GENERAL LEARNER OUTCOMES," was deferred until Friday, April 8, 2011.

Senators Tokuda and Gabbard, for the Committee on Education and the Committee on Energy and Environment, presented a joint report (Stand. Com. Rep. No. 1070) recommending that S.C.R. No. 146, as amended in S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1070 and S.C.R. No. 146, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF EDUCATION TO COMPILE AND SUMMARIZE THE RESULTS OF ALL STUDIES CONDUCTED ON WASTE REDUCTION IN HAWAII'S PUBLIC SCHOOLS AND PROPOSE STRATEGIES, GOALS,

AND BENCHMARKS FOR REDUCING WASTE IN HAWAII'S PUBLIC SCHOOLS," was deferred until Friday, April 8, 2011.

Senators Tokuda and Chun Oakland, for the Committee on Education and the Committee on Human Services, presented a joint report (Stand. Com. Rep. No. 1071) recommending that S.C.R. No. 114, as amended in S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1071 and S.C.R. No. 114, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE UNIVERSITY OF HAWAII SYSTEM TO EXAMINE THE FEASIBILITY OF RE-ESTABLISHING THE ADVANCED CERTIFICATE IN GERONTOLOGY PROGRAM, TO CONSIDER ESTABLISHING A RESEARCH EDUCATION AND MENTORSHIP PROGRAM TO SUPPORT RESEARCH ON AGING, AND TO EXPLORE WAYS TO BUILD CAPACITY TO MEET THE AGING-RELATED WORKFORCE NEEDS OF THE STATE," was deferred until Friday, April 8, 2011.

Senators Tokuda, Kim and Green, for the Committee on Education and the Committee on Tourism and the Committee on Health, presented a joint report (Stand. Com. Rep. No. 1072) recommending that S.C.R. No. 132, as amended in S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1072 and S.C.R. No. 132, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING AN EXPLORATORY STUDY ON HAWAII'S SUITABILITY AS A CLIMATOTHERAPY TOURISM DESTINATION FOR ATOPIC DISEASE PATIENTS FROM EAST ASIA," was deferred until Friday, April 8, 2011.

Senator Tokuda, for the Committee on Education, presented a report (Stand. Com. Rep. No. 1073) recommending that the Senate advise and consent to the nominations to the Hawai'i Teacher Standards Board of the following:

LOUISE CAYETANO, in accordance with Gov. Msg. No. 544;

WRAY JOSE, in accordance with Gov. Msg. No. 545; and

BARRY WURST, in accordance with Gov. Msg. No. 546.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1073 and Gov. Msg. Nos. 544, 545 and 546 was deferred until Friday, April 8, 2011.

Senator Tokuda, for the Committee on Education, presented a report (Stand. Com. Rep. No. 1074) recommending that the Senate advise and consent to the nomination of J.N. MUSTO to the Education Commission of the States, in accordance with Gov. Msg. No. 570.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1074 and Gov. Msg. No. 570 was deferred until Friday, April 8, 2011.

Senator Ige, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 1075) recommending that H.B. No. 200, 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. 200, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE BUDGET," passed Second Reading and was placed on the calendar for Third Reading on Tuesday, April 12, 2011.

Senator Ige, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 1076) recommending

that H.B. No. 300, H.D. 2, S.D. 1, as amended in S.D. 2, pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 1076 and H.B. No. 300, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE JUDICIARY," was deferred until Tuesday, April 12, 2011.

Senator Ige, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 1077) recommending that H.B. No. 400, H.D. 1 pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 1077 and H.B. No. 400, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE BUDGET OF THE OFFICE OF HAWAIIAN AFFAIRS," was deferred until Friday, April 8, 2011.

ORDER OF THE DAY ADVISE AND CONSENT

Stand. Com. Rep. No. 1059 (Gov. Msg. Nos. 537, 538 and 539):

Senator Baker moved that Stand. Com. Rep. No. 1059 be received and placed on file, seconded by Senator Taniguchi and carried.

Senator Baker then moved that the Senate advise and consent to the nominations to the Real Estate Commission of the following:

ROWENA COBB, term to expire June 30, 2015 (Gov. Msg. No. 537);

NIKKI SENTER, term to expire June 30, 2015 (term amended to June 30, 2014 by Gov. Msg. No. 575) (Gov. Msg. No. 538); and

AILEEN WADA, term to expire June 30, 2015 (Gov. Msg. No. 539),

seconded by Senator Taniguchi.

Senator Baker rose in strong support of the nominees as follows:

"These nominees for both Real Estate Commission and the Board of Electricians and Plumbers really have exemplified the best in their profession. They not only want to give back to their profession and their community, but they've also been active in their community supporting the kinds of ethics and training that are required for these professionals, so I strongly encourage my colleagues to vote in favor of all of them."

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

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

Stand. Com. Rep. No. 1060 (Gov. Msg. Nos. 528 and 529):

Senator Baker moved that Stand. Com. Rep. No. 1060 be received and placed on file, seconded by Senator Taniguchi and carried.

Senator Baker then moved that the Senate advise and consent to the nominations to the State Board of Chiropractic Examiners of the following:

ROBERT KLEIN, term to expire June 30, 2015 (Gov. Msg. No. 528); and

JAMES PLEISS, term to expire June 30, 2015 (term amended to June 30, 2014 by Gov. Msg. No. 575) (Gov. Msg. No. 529),

seconded by Senator Taniguchi.

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

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

Stand. Com. Rep. No. 1061 (Gov. Msg. Nos. 533 and 534):

Senator Baker moved that Stand. Com. Rep. No. 1061 be received and placed on file, seconded by Senator Taniguchi and carried.

Senator Baker then moved that the Senate advise and consent to the nominations to the Board of Electricians and Plumbers of the following:

PETER L. AKAMU, term to expire June 30, 2015 (Gov. Msg. No. 533); and

MATT BRADY, term to expire June 30, 2015 (Gov. Msg. No. 534),

seconded by Senator Taniguchi.

Senator Baker rose in strong support of the nominees as follows:

"These nominees for both Real Estate Commission and the Board of Electricians and Plumbers really have exemplified the best in their profession. They not only want to give back to their profession and their community, but they've also been active in their community supporting the kinds of ethics and training that are required for these professionals, so I strongly encourage my colleagues to vote in favor of all of them."

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

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

Stand. Com. Rep. No. 1062 (Gov. Msg. No. 536):

Senator Baker moved that Stand. Com. Rep. No. 1062 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 RONALD S. WEINBERG to the Pest Control Board, term to expire June 30, 2015, seconded by Senator Taniguchi.

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

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

At this time, Senator Baker introduced newly confirmed members of various boards and commissions including Aileen Wada, Real Estate Commission – O'ahu; Rowena Cobb, Real Estate Commission – Kaua'i, who was joined by her husband Jack; and Matt Brady, Board of Electricians and Plumbers.

Senator Baker also introduced Gene Zarro, Chair of the Kīhei Charter Local School Board.

Senator Kouchi also recognized and congratulated Rowena and Jack Cobb, and noted that Rowena was not only a great professional in the real estate field, but someone who has also given so much of her personal time to participate in community activities.

THIRD READING

Stand. Com. Rep. No. 1049 (H.B. No. 1520, H.D. 2, S.D. 2):

On motion by Senator Baker, seconded by Senator Taniguchi and carried, Stand. Com. Rep. No. 1049 was adopted and H.B. No. 1520, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO RENEWABLE ENERGY," having been read

throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Slom). Excused, 1 (English).

Stand. Com. Rep. No. 1050 (H.B. No. 1342, H.D. 1, S.D. 2):

On motion by Senator Baker, seconded by Senator Taniguchi and carried, Stand. Com. Rep. No. 1050 was adopted and H.B. No. 1342, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO TELECOMMUNICATIONS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

Stand. Com. Rep. No. 1051 (H.B. No. 747, H.D. 1, S.D. 2):

On motion by Senator Baker, seconded by Senator Taniguchi and carried, Stand. Com. Rep. No. 1051 was adopted and H.B. No. 747, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO LIQUOR LIABILITY INSURANCE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

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

At this time, the Chair made the following announcements:

"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."

"The deadline to file committee reports on House bills that need to pass Second Reading is 8:00 p.m."

**REFERRAL OF
HOUSE CONCURRENT RESOLUTIONS**

The President made the following committee assignments of House concurrent resolutions received on Wednesday, April 6, 2011:

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| H.C.R. No.: | Referred to: |
| H.C.R. No. 147 | Jointly to the Committee on Transportation and International Affairs and the Committee on Economic Development and Technology |
| H.C.R. No. 234 | Committee on Transportation and International Affairs |
| H.C.R. No. 266, H.D. 1 | Committee on Health |
| H.C.R. No. 273 | Jointly to the Committee on Tourism and the Committee on Education |
| H.C.R. No. 309, H.D. 1 | Committee on Human Services |

Senator Hee, Chair of the Committee on Judiciary and Labor, requested a waiver of the notice requirement pursuant to Senate Rule 21 for H.B. No. 879, S.D. 1.

Senator Hee noted:

"Your committee has been informed that the parties involved in this measure have reached agreement, so we will add this measure to our Friday decision making agenda in order to meet the Second Decking deadline."

The Chair granted the waiver.

Senator Ige, Chair of the Committee on Ways and Means, requested a waiver of the notice requirement pursuant to Senate Rule 21 for H.B. No. 1039, S.D. 1.

Senator Ige noted:

"We need to schedule this bill for Friday's hearing agenda in order to meet the Second Decking deadline."

The Chair granted the waiver.

ADJOURNMENT

At 12:01 p.m., on motion by Senator Espero, seconded by Senator Slom and carried, the Senate adjourned until 11:30 a.m., Friday, April 8, 2011.