

FIFTY-THIRD DAY

Thursday, April 21, 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 Fifty-Second Day.

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 663 to 668) were read by the Clerk and were placed on file:

Hse. Com. No. 663, informing the Senate that on April 20, 2011, the Speaker made the following changes to the conferees on the following bills:

H.B. No. 1308, H.D. 2 (S.D. 2):

Representatives Yamashita, Ward added as managers.

S.B. No. 318, S.D. 2 (H.D. 2):

Representatives Yamashita, Ward added as managers.

Hse. Com. No. 664, informing the Senate that the House agreed to the amendments proposed by the Senate to the following House bills and said bills passed Final Reading in the House of Representatives on April 20, 2011:

H.B. No. 389, H.D. 3, S.D. 2; and
H.B. No. 1004, H.D. 1, S.D. 1.

Hse. Com. No. 665, informing the Senate that on April 20, 2011, the House discharged all conferees to H.B. No. 49, H.D. 1 (S.D. 1).

Hse. Com. No. 666, informing the Senate that on April 20, 2011, the Speaker made the following changes to the conferees on the following bill:

S.B. No. 1065, S.D. 1 (H.D. 1):

Representatives Fontaine replaced Representative Ward as a manager.

Hse. Com. No. 667, informing the Senate that on April 20, 2011, the House discharged all conferees to H.B. No. 1038, H.D. 2 (S.D. 2).

Hse. Com. No. 668, informing the Senate that on April 20, 2011, the House discharged all conferees to the following bills:

H.B. No. 397, H.D. 2 (S.D. 2); and
H.B. No. 915, H.D. 2 (S.D. 2).

CONFERENCE COMMITTEE REPORT

Senator English, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House to S.B. No. 98, S.D. 2, presented a report (Conf. Com. Rep. No. 1) recommending that S.B. No. 98, 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 Hawai'i, action on Conf. Com. Rep. No. 1 and S.B. No. 98, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO WATER CARRIERS," was deferred for a period of 48 hours.

STANDING COMMITTEE REPORTS

Senator Nishihara, for the Committee on Agriculture, presented a report (Stand. Com. Rep. No. 1331) recommending that the Senate advise and consent to the nominations to the Board of Directors of the Agribusiness Development Corporation of the following:

LETITIA UYEHARA, in accordance with Gov. Msg. No. 577;

SCOTT E. ENRIGHT, in accordance with Gov. Msg. No. 578; and

ALAN T. TAKEMOTO, in accordance with Gov. Msg. No. 579.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1331 and Gov. Msg. Nos. 577, 578 and 579 was deferred until Monday, April 25, 2011.

Senator Chun Oakland, for the Committee on Human Services, presented a report (Stand. Com. Rep. No. 1332) recommending that the Senate advise and consent to the nominations to the State Council on Developmental Disabilities of the following:

JOE D. CORDOVA, in accordance with Gov. Msg. No. 612;

BERNADETTE L. KELIAA, in accordance with Gov. Msg. No. 613; and

ROSELANI M. ROWE, in accordance with Gov. Msg. No. 615.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1332 and Gov. Msg. Nos. 612, 613 and 615 was deferred until Monday, April 25, 2011.

Senator English, for the Committee on Transportation and International Affairs, presented a report (Stand. Com. Rep. No. 1333) recommending that the Senate advise and consent to the nomination of ERIC MATSUDA to the Commission on Transportation, in accordance with Gov. Msg. No. 751.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1333 and Gov. Msg. No. 751 was deferred until Monday, April 25, 2011.

Senator Chun Oakland, for the Committee on Human Services, presented a report (Stand. Com. Rep. No. 1334) recommending that the Senate advise and consent to the nominations to the State Council on Developmental Disabilities of the following:

LANI BARTHOLOMEW, in accordance with Gov. Msg. No. 611;

AARON M. KEMP, in accordance with Gov. Msg. No. 614;

TIFFANY VARA, in accordance with Gov. Msg. No. 616; and

JOSEPHINE C. WOLL, in accordance with Gov. Msg. No. 617.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1334 and Gov. Msg. Nos. 611, 614, 616 and 617 was deferred until Monday, April 25, 2011.

ORDER OF THE DAY
ADVISE AND CONSENT

Stand. Com. Rep. No. 1327 (Gov. Msg. No. 722):

Senator Chun Oakland moved that Stand. Com. Rep. No. 1327 be received and placed on file, seconded by Senator Ihara and carried.

Senator Chun Oakland then moved that the Senate advise and consent to the nomination of RUSS S. AWAKUNI to the Commission on Fatherhood, term to expire June 30, 2015, seconded by Senator Ihara.

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

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

Stand. Com. Rep. No. 1328 (Gov. Msg. Nos. 727 and 728):

Senator Chun Oakland moved that Stand. Com. Rep. No. 1328 be received and placed on file, seconded by Senator Ihara and carried.

Senator Chun Oakland then moved that the Senate advise and consent to the nominations to the Policy Advisory Board for Elder Affairs of the following:

ABELINA SHAW, term to expire June 30, 2015 (Gov. Msg. No. 727); and

BEVERLY JEAN WITHINGTON, term to expire June 30, 2012 (Gov. Msg. No. 728),

seconded by Senator Ihara.

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

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

Stand. Com. Rep. No. 1329 (Gov. Msg. Nos. 596, 597, 598 and 599):

Senator Baker moved that Stand. Com. Rep. No. 1329 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 Motor Vehicle Repair Industry Board of the following:

SWEE L. BERKEY, term to expire June 30, 2015 (Gov. Msg. No. 596);

STEVEN J.T. CHOW, term to expire June 30, 2015 (Gov. Msg. No. 597);

WARREN HIGA, term to expire June 30, 2015 (Gov. Msg. No. 598); and

ALAN M. NAKAMURA, term to expire 6-30-2015 (term amended to June 30, 2014 by Gov. Msg. No. 789) (Gov. Msg. No. 599),

seconded by Senator Taniguchi.

Senator Baker rose to request that remarks in support of the nominees be entered into the Journal, and the Chair so ordered.

The Chair having so ordered, Senator Baker's remarks read as follows:

"Mr. President, Senate Standing Committee Report 1329 transmits recommendation of your committee on Commerce and Consumer Protection to advise and consent to the following individuals to the Motor Vehicle Repair Industry Board: Swee L. Berkey, Steven J.T. Chow, Warren Higa and

Alan M. Nakamura. During our committee hearing we found that all four nominees possess the knowledge and dedication required to effectively serve on this board. All of them well-qualified and informed on issues that may come before the motor vehicle repair industry board either from a consumer or public perspective or from the industry perspective. All three expressed great interest in serving on this board and I trust that all of them will contribute to the board's effectiveness on behalf of both the motor vehicle repair industry and Hawai'i consumers.

"I urge my colleagues to vote to confirm these nominees. Mahalo."

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

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

ADOPTION OF RESOLUTIONS

**MATTERS DEFERRED FROM
WEDNESDAY, APRIL 20, 2011**

Stand. Com. Rep. No. 1325 (H.C.R. No. 60, S.D. 1):

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 60, S.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION RECOGNIZING APRIL AS SEXUAL ASSAULT AWARENESS AND PREVENTION MONTH," was adopted.

Stand. Com. Rep. No. 1326 (H.C.R. No. 309, H.D. 1, S.D. 1):

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 309, H.D. 1, S.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE GOVERNOR TO PROCLAIM THE SECOND WEEK OF AUGUST OF EVERY YEAR AS "HAWAII STATE ASSISTANCE DOGS WEEK"," was adopted.

Stand. Com. Rep. No. 1330 (S.R. No. 110, 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. 110, S.D. 1, entitled: "SENATE RESOLUTION REQUESTING THE STATE HAZARD MITIGATION FORUM TO STUDY MEASURES TO MITIGATE RISKS ASSOCIATED WITH STATE FLOOD HAZARDS," was adopted.

ADOPTION OF RESOLUTIONS

H.C.R. No. 24:

On motion by Senator Espero, seconded by Senator Slom and carried, H.C.R. No. 24, entitled: "HOUSE CONCURRENT RESOLUTION EXTENDING THE DEADLINE FOR THE HOME FOR LIFE TASK FORCE TO REPORT ITS FINDINGS AND RECOMMENDATIONS FOR REDUCING BARRIERS TO AGING IN PLACE AND FACILITATING MULTIGENERATIONAL LIVING," was adopted.

H.C.R. No. 286, H.D. 1:

On motion by Senator Espero, seconded by Senator Slom and carried, H.C.R. No. 286, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS TO ESTABLISH A TASK FORCE TO WORK COLLABORATIVELY TO FIND WAYS TO MORE EFFECTIVELY ENFORCE THE STATE'S CIVIL AND CRIMINAL LAWS THAT MAY APPLY TO UNLICENSED CONTRACTORS," was adopted.

FINAL READING

S.B. No. 590, S.D. 1, H.D. 2:

On motion by Senator Espero, seconded by Senator Ige and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 590, S.D. 1, and S.B. No. 590, S.D. 1, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE LEGISLATIVE FEDERAL ECONOMIC STIMULUS PROGRAM OVERSIGHT COMMISSION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

S.B. No. 782, S.D. 2, H.D. 1:

On motion by Senator Espero, seconded by Senator Shimabukuro and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 782, S.D. 2, and S.B. No. 782, S.D. 2, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DANGEROUS WEAPONS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

S.B. No. 823, S.D. 1, H.D. 1:

On motion by Senator Espero, seconded by Senator Ige and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 823, S.D. 1, and S.B. No. 823, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

S.B. No. 883, S.D. 2, H.D. 1:

On motion by Senator Espero, seconded by Senator Ige and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 883, S.D. 2, and S.B. No. 883, S.D. 2, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL NUMBER PLATES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

S.B. No. 892, S.D. 2, H.D. 2:

On motion by Senator Espero, seconded by Senator Shimabukuro and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 892, S.D. 2, and S.B. No. 892, S.D. 2, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO SERVICE ANIMALS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

S.B. No. 1288, S.D. 1, H.D. 1:

On motion by Senator Ige, seconded by Senator Kidani and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 1288, S.D. 1, and S.B. No. 1288, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE EMERGENCY AND BUDGET RESERVE FUND," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Slom).

S.B. No. 1292, H.D. 1:

On motion by Senator Chun Oakland, seconded by Senator Ihara and carried, the Senate agreed to the amendments

proposed by the House to S.B. No. 1292, and S.B. No. 1292, H.D. 1, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION TO THE DEPARTMENT OF HUMAN SERVICES FOR HEALTH CARE PAYMENTS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

S.B. No. 1325, S.D. 1, H.D. 1:

On motion by Senator English, seconded by Senator Baker and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 1325, S.D. 1, and S.B. No. 1325, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE REGISTRATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

MISCELLANEOUS BUSINESS**RECONSIDERATION OF ACTIONS TAKEN**

S.B. No. 1293 (H.D. 2):

Senator Chun Oakland moved that the Senate reconsider its action taken on April 14, 2011, in disagreeing to the amendments proposed by the House to S.B. No. 1293, seconded by Senator Ihara and carried.

Senator Chun Oakland then moved that the Senate agree to the amendments made by the House to S.B. No. 1293, seconded by Senator Ihara.

Senator Chun Oakland noted:

"This is the emergency appropriation bill for Temporary Assistance to Needy Families. The amendments made by the House are agreeable to the Senate."

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 1293, and S.B. No. 1293, H.D. 2, entitled: "A BILL FOR AN ACT MAKING EMERGENCY APPROPRIATIONS FOR THE DEPARTMENT OF HUMAN SERVICES," was placed on the calendar for Final Reading on Monday, April 25, 2011.

WAIVER OF REFERRAL

Senator Dela Cruz, Chair of the Committee on Water, Land, and Housing, requested that the joint referral of H.C.R. No. 100, H.D. 2 to the Committee on Water, Land, and Housing and the Committee on Economic Development and Technology; and the referral of H.C.R. No. 85, H.D. 1 and H.C.R. No. 173 to the Committee on Water, Land, and Housing be waived pursuant to Senate Rule 46(4).

The Chair granted the waiver.

By unanimous consent, the following House concurrent resolutions were placed on the calendar for adoption on Monday, April 25, 2011:

H.C.R. No. 100, H.D. 2, entitled: "HOUSE CONCURRENT RESOLUTION ENCOURAGING THE DEPARTMENT OF LAND AND NATURAL RESOURCES AND HAWAII COMMUNITY DEVELOPMENT AUTHORITY TO LOCATE LAND SUITABLE TO CONSTRUCT A MOTORSPORTS CENTER ON THE ISLAND OF OAHU;"

H.C.R. No. 85, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTIONS URGING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO DETERMINE WHETHER LANDS ALONG THE WAIPIO PENINSULA AND WAIPAHU SHORELINES ARE ACCRETED

LANDS AND THEREFORE STATE PROPERTY FOR PROSPECTIVE USE AS A STATE PARK;” and

H.C.R. No. 173, entitled: “HOUSE CONCURRENT RESOLUTION URING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO WORK WITH MOANALUA GARDENS FOUNDATION TO EXECUTE A MEMORANDUM OF UNDERSTANDING FOR THE USE OF KAMANANUI (MOANALUA) VALLY FOR EDUCATION AND CULTURAL PURPOSES.”

Senator Nishihara, Chair of the Committee on Agriculture, requested that the joint referral of H.C.R. No. 167 to the Committee on Agriculture and the Committee on Education be waived pursuant to Senate Rule 46(4):

Senator Nishihara noted:

“Due to the Friday holiday and the conference pressing schedules, we would like to have this considered and the House has already heard and passed this measure.”

The Chair granted the waiver.

By unanimous consent, H.C.R. No. 167, entitled: “HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF AGRICULTURE TO CONVENE A WORKING GROUP TO EXAMINE THE FEDERAL 2008 FARM BILL AMENDMENT TO THE RICHARD B. RUSSELL NATIONAL SCHOOL LUNCH ACT,” was placed on the calendar for adoption on Monday, April 25, 2011.

At this time, Senator Espero introduced a group of fourth-grade students from Ko‘olau Baptist Academy who were seated in the gallery with their teacher Mrs. Cynthia Williams and chaperones Mr. Jason Lee and Mr. Paul Swinder.

Senator English rose to make the following remarks:

“I’d like to request that the Senate adjourn on a rising vote and observe a moment of silence in honor and memory of Anthony ‘Akoni’ Akana. Akoni was a noted Maui historian and cultural expert, a renowned kumu hula, and an accomplished composer of Hawaiian oli and mele. He passed on March 25 and his services will be in Lahaina on Saturday. The island of Maui and the State of Hawai‘i have lost a great cultural treasure with Akoni’s passing.” (The Chair so ordered).

At this time, the Chair made the following announcements:

“First, 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.

“Second, conferees will be named in accordance with the action sheet to be distributed to your offices later today.

“Finally, the deadline to file committee reports on amended House concurrent resolutions in order to meet Monday’s Second Crossover deadline is 5:00 p.m. today.”

APPOINTMENT OF CONFEREES

S.B. No. 754, S.D. 1 (H.D. 1):

The President appointed Senator Kim 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. 754, S.D. 1.

S.B. No. 1154, S.D. 2 (H.D. 1):

In accordance with the disagreement of the Senate to the amendments proposed by the House to S.B. No. 1154, S.D. 2, and the request for a conference on the subject matter thereof, the President appointed Senators Solomon, chair; Galuteria,

Kahele, Ige, Kim as co-chairs on the part of the Senate at such conference.

S.B. No. 1363, S.D. 2 (H.D. 2):

In accordance with the disagreement of the Senate to the amendments proposed by the House to S.B. No. 1363, S.D. 2, and the request for a conference on the subject matter thereof, the President appointed Senators Gabbard, chair; Fukunaga, Ige, Baker, co-chairs; English, Kouchi as managers on the part of the Senate at such conference.

H.B. No. 1085, H.D. 2 (S.D. 2):

In accordance with the disagreement of the House to the amendments proposed by the Senate to H.B. No. 1085, H.D. 2, and the request for a conference on the subject matter thereof, the President appointed Senators Hee, chair; Kidani, co-chair; Shimabukuro as manager on the part of the Senate at such conference.

ADJOURNMENT

At 11:46 a.m., on motion by Senator Espero, seconded by Senator Slom and carried, the Senate adjourned until 11:30 a.m., Monday, April 25, 2011, on a rising vote, observing a moment of silence in memory of renowned cultural expert, kumu hula, music composer, and Maui historian Anthony “Akoni” Akana.