

FORTY-FOURTH DAY

Wednesday, April 4, 2012

The Senate of the Twenty-Sixth Legislature of the State of Hawai'i, Regular Session of 2012, convened at 11:38 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-Third Day.

At this time, Senator Kouchi introduced 15 students from Kaua'i who were participating in the Hawaii State Science and Engineering Fair including: from Waimea Canyon Middle School—Julia Hirano, Emily Carlson, Cheyenne Natividad-Parraga, BreeAnn Cayaban, Sharay Rapozo, Jacky Lin, and Braden Kobayashi; from Kapa'a Middle School—Mallorie Awoki; from Kapa'a High School—Savanah Frisk, Casey Nakamura, Taylor McGinnis, Kalani Murakami, and Marissa Goo; from Waimea High School—Kayla Ishida; and from Kaua'i High School—Noelani Murray. The students were accompanied by teachers Jim Cox, Justin Yamagata, Lisa Yamagata, Kimberlee Stuart, Kevin Johnson, and Monique Cho; and parent chaperones Shasta Rapozo and Leah Aiwohi.

Senator Ige rose to speak on a point of personal privilege as follows:

"I just did want to comment. I think it is appropriate because sometimes we get caught up in the activities in the building, but for those members who haven't had a chance to visit the science fair, it truly is a reaffirmation that the State of Hawai'i and the country in general are in good hands as these future scientists carry on extraordinary projects way beyond what I could even think of. So, congratulations to all the students for taking the effort, and the teachers for providing the guidance to help them in their research endeavors. Thank you."

Senator Chun Oakland honored Sister Agnelle Ching for her outstanding contributions to Hawai'i. Also recognized were Jerry Correa, Jr., President and Chief Executive Officer of St. Francis Healthcare System of Hawai'i, and Eugene Tiwanak, consultant.

Senator Gabbard commended Hawai'i's Invasive Species Committees for their efforts to keep Hawai'i naturally beautiful. Present to receive the commendation were Invasive Species Committee Managers Jan Schipper (Big Island), Keren Gundersen (Kaua'i), Teya Penniman (Maui), Lori Buchanan (Moloka'i), and Rachel Neville (O'ahu); and Dr. Mohsen Ramadan, Department of Agriculture Field Biologist.

Also recognized were Josh Atwood, HISC Coordinator; Christy Martin, PIO for the Coordinating Group on Alien Pest Species; Jackie Kozak Thiel, HISC Communications Coordinator; Allen Rietow, KISC Chair; Danielle Frohlich, Alex Lau, Keoki Kanakaokai, Aka Beebe, Taylor Marsh, Zoe Eisenpress, Aaron Works, Jean Fujikawa, Mary Ikagawa, Lara Reynolds, and Megan Karr of OISC; Dr. David Duffy and Lynette Kinoshita, University of Hawai'i; and representatives from the Hawai'i Department of Agriculture's Biological Control Section who were seated in the gallery.

Senator Kouchi extended an additional welcome to Jerry Correa, Jr. of St. Francis.

At 12:00 p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:12 p.m.

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 354 to 358) were read by the Clerk and were disposed of as follows:

Hse. Com. No. 354, informing the Senate that on April 3, 2012, the House disagreed to the amendments proposed by the Senate to the following House bills:

H.B. No. 1695 (S.D. 1);
H.B. No. 1980, H.D. 1 (S.D. 1);
H.B. No. 1984 (S.D. 1);
H.B. No. 2169, H.D. 2 (S.D. 1);
H.B. No. 2436, H.D. 1 (S.D. 1);
H.B. No. 2497 (S.D. 1);
H.B. No. 2568, H.D. 2 (S.D. 1); and
H.B. No. 2605, H.D. 1 (S.D. 1),

was placed on file.

Hse. Com. No. 355, returning S.B. No. 2650, S.D. 1, which passed Third Reading in the House of Representatives on April 3, 2012, was placed on file.

Hse. Com. No. 356, returning S.B. No. 1500, as amended in H.D. 1, which passed Third Reading in the House of Representatives on April 3, 2012, was placed on file.

By unanimous consent, action on S.B. No. 1500, (H.D. 1), entitled: "A BILL FOR AN ACT RELATING TO ANATOMICAL GIFTS," was deferred until Thursday, April 5, 2012.

Hse. Com. No. 357, returning S.B. No. 2229, S.D. 2, as amended in H.D. 1, which passed Third Reading in the House of Representatives on April 3, 2012, was placed on file.

By unanimous consent, action on S.B. No. 2229, S.D. 2, (H.D. 1), entitled: "A BILL FOR AN ACT RELATING TO VACCINATIONS," was deferred until Thursday, April 5, 2012.

Hse. Com. No. 358, returning S.B. No. 2398, S.D. 2, as amended in H.D. 1, which passed Third Reading in the House of Representatives on April 3, 2012, was placed on file.

By unanimous consent, action on S.B. No. 2398, S.D. 2, (H.D. 1), entitled: "A BILL FOR AN ACT RELATING TO TATTOO ARTISTS," was deferred until Thursday, April 5, 2012.

STANDING COMMITTEE REPORTS

Senators Gabbard and Dela Cruz, for the Committee on Energy and Environment and the Committee on Water, Land, and Housing, presented a joint report (Stand. Com. Rep. No. 3158) recommending that S.C.R. No. 64, as amended in S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 3158 and S.C.R. No. 64, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION URGING THE PUBLIC LAND DEVELOPMENT CORPORATION TO IDENTIFY PUBLIC TRUST LAND ON THE ISLANDS OF HAWAII AND MAUI WITH GEOTHERMAL RESOURCES THAT MAY BE DEVELOPED AND TO WORK WITH THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO DEVELOP AND IMPLEMENT GEOTHERMAL DEVELOPMENT PROJECTS ON PUBLIC TRUST LAND ON THE ISLANDS OF HAWAII AND MAUI," was deferred until Thursday, April 5, 2012.

Senator Fukunaga, for the Committee on Economic Development and Technology, presented a report (Stand. Com. Rep. No. 3159) recommending that S.C.R. No. 116 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 3159 and S.C.R. No. 116, entitled: "SENATE CONCURRENT RESOLUTION APPROVING THE SELECTION OF DANIEL KAHIKINA AKAKA TO BE INDUCTED INTO THE ALOHA ORDER OF MERIT," was deferred until Thursday, April 5, 2012.

Senators Fukunaga and Dela Cruz, for the Committee on Economic Development and Technology and the Committee on Water, Land, and Housing, presented a joint report (Stand. Com. Rep. No. 3160) recommending that S.C.R. No. 141 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 3160 and S.C.R. No. 141, entitled: "SENATE CONCURRENT RESOLUTION DECLARING THE FIRST WEEK OF OCTOBER AS HAWAII FISHING AND SEAFOOD WEEK," was deferred until Thursday, April 5, 2012.

Senator Espero, for the Committee on Public Safety, Government Operations, and Military Affairs, presented a report (Stand. Com. Rep. No. 3161) recommending that S.C.R. No. 10, as amended in S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 3161 and S.C.R. No. 10, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE SUPPORT OF THE REPEAL OF COMBAT EXCLUSIONARY RULES," was deferred until Thursday, April 5, 2012.

Senator Espero, for the Committee on Public Safety, Government Operations, and Military Affairs, presented a report (Stand. Com. Rep. No. 3162) recommending that S.R. No. 10, as amended in S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 3162 and S.R. No. 10, S.D. 1, entitled: "SENATE RESOLUTION REQUESTING THE SUPPORT OF THE REPEAL OF COMBAT EXCLUSIONARY RULES," was deferred until Thursday, April 5, 2012.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 3163) recommending that H.B. No. 2409, S.D. 1 pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 3163 and H.B. No. 2409, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONSUMER PROTECTION," was deferred until Thursday, April 5, 2012.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 3164) recommending that H.B. No. 994, H.D. 1 pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 3164 and H.B. No. 994, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE INSURANCE," was deferred until Thursday, April 5, 2012.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 3165) recommending that H.B. No. 1868, H.D. 1 pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 3165 and H.B. No. 1868, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TELECOMMUNICATIONS," was deferred until Thursday, April 5, 2012.

Senator Tokuda, for the Committee on Education, presented a report (Stand. Com. Rep. No. 3166) recommending that the Senate advise and consent to the nominations to the Center for Nursing Advisory Board of the following:

FRANCISCO CONDE II, in accordance with Gov. Msg. No. 738;

ART GLADSTONE, in accordance with Gov. Msg. No. 739;

BARBARA KOOKER, in accordance with Gov. Msg. No. 742;

SUSAN LEE, in accordance with Gov. Msg. No. 743;

PATRICIA NISHIMOTO, in accordance with Gov. Msg. No. 744;

LANI TSUNEISHI, in accordance with Gov. Msg. No. 745; and

SUSAN YOUNG, in accordance with Gov. Msg. No. 746.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 3166 and Gov. Msg. Nos. 738, 739, 742, 743, 744, 745, and 746 was deferred until Thursday, April 5, 2012.

Senator Baker, for the majority of the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 3167) recommending that H.B. No. 2078, H.D. 2, S.D. 1, as amended in S.D. 2, pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 3167 and H.B. No. 2078, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," was deferred until Tuesday, April 10, 2012.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 3168) recommending that H.B. No. 1967, H.D. 2, S.D. 1, as amended in S.D. 2, pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 3168 and H.B. No. 1967, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO MEDICAL CLAIM CONCILIATION," was deferred until Tuesday, April 10, 2012.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 3169) recommending that H.B. No. 425, H.D. 3, S.D. 1, as amended in S.D. 2, pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 3169 and H.B. No. 425, H.D. 3, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC UTILITIES," was deferred until Tuesday, April 10, 2012.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 3170) recommending that H.B. No. 2013, H.D. 2, as amended in S.D. 1, pass Third Reading.

By unanimous consent, action on Stand. Com. Rep. No. 3170 and H.B. No. 2013, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATED TO MIXED MARTIAL ARTS," was deferred until Tuesday, April 10, 2012.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 3171) recommending that H.B. No. 2257, 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. 2257, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PROFESSIONAL AND VOCATIONAL

LICENSING,” passed Second Reading and was placed on the calendar for Third Reading on Tuesday, April 10, 2012.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 3172) recommending that H.B. No. 1706, 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. 1706, H.D. 1, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO CONDOMINIUMS,” passed Second Reading and was placed on the calendar for Third Reading on Tuesday, April 10, 2012.

Senator Fukunaga, for the Committee on Economic Development and Technology, presented a report (Stand. Com. Rep. No. 3173) recommending that H.B. No. 2266, 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. 2266, H.D. 1, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO INFORMATION TECHNOLOGY,” passed Second Reading and was placed on the calendar for Third Reading on Tuesday, April 10, 2012.

ORDER OF THE DAY

AGREE/DISAGREE

MATTERS DEFERRED FROM TUESDAY, APRIL 3, 2012

S.B. No. 2222, 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. 2222, S.D. 2, and requested a conference on the subject matter thereof.

S.B. No. 2247, 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. 2247, S.D. 2, and requested a conference on the subject matter thereof.

S.B. No. 3039, 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. 3039, S.D. 1, and requested a conference on the subject matter thereof.

ADOPTION OF RESOLUTIONS

MATTERS DEFERRED FROM TUESDAY, APRIL 3, 2012

Spec. Com. Rep. No. 1 (S.C.R. No. 34, S.D. 1):

Senator Espero moved that Spec. Com. Rep. No. 1 and S.C.R. No. 34, S.D. 1 be adopted, seconded by Senator Slom.

Senator Taniguchi requested his vote be cast “aye, with reservations,” and the Chair so ordered.

Senator Kim rose to speak in support of the measure as follows:

“First, let me thank the members of the Committee on Accountability—Vice Chair Senator Espero and members Kouchi, Hee, Ihara, and Slom. We held four hearings that lasted many hours, and I appreciate the full participation of all the members on the committee.

“Your committee gained a lot of insight regarding overpayments, overtime, sick leave, pension spiking, and leave without pay, and how it is costing the taxpayers of our state hundreds and thousands of dollars. I believe that the committee’s work will yield us greater attention and diligence by the state departments in time and attendance, collection of these overpayments, and the management of overtime. However, we need much more information, Mr. President, if we are serious about understanding what it is we can do to address these problems. Your committee unanimously agrees that our State Auditor should be able, by way of audits, to shed more light on the extent of these problems and possible remedies. I urge my colleagues to support both resolutions. Thank you.”

The motion by was put by the Chair and carried, Spec. Com. Rep. No. 1 was adopted and S.C.R. No. 34, S.D. 1, entitled: “SENATE CONCURRENT RESOLUTION REQUESTING THE AUDITOR TO CONDUCT AUDITS OF STATE DEPARTMENT OPERATIONS THAT RESULT IN HIGH NON-BASE COMPENSATION OF STATE AND COUNTY EMPLOYEES, PAY FOR NOT WORKING, AND SALARY OVERPAYMENTS,” was adopted with Senator Taniguchi voting “Aye, with Reservations.”

Spec. Com. Rep. No. 2 (S.R. No. 21, S.D. 1):

Senator Espero moved that Spec. Com. Rep. No. 2 and S.R. No. 21, S.D. 1 be adopted, seconded by Senator Slom.

Senator Taniguchi requested his vote be cast “aye, with reservations,” and the Chair so ordered.

Senator Kim rose to speak in support of the measure as follows:

“First, let me thank the members of the Committee on Accountability—Vice Chair Senator Espero and members Kouchi, Hee, Ihara, and Slom. We held four hearings that lasted many hours, and I appreciate the full participation of all the members on the committee.

“Your committee gained a lot of insight regarding overpayments, overtime, sick leave, pension spiking, and leave without pay, and how it is costing the taxpayers of our state hundreds and thousands of dollars. I believe that the committee’s work will yield us greater attention and diligence by the state departments in time and attendance, collection of these overpayments, and the management of overtime. However, we need much more information, Mr. President, if we are serious about understanding what it is we can do to address these problems. Your committee unanimously agrees that our State Auditor should be able, by way of audits, to shed more light on the extent of these problems and possible remedies. I urge my colleagues to support both resolutions. Thank you.”

The motion was put by the Chair and carried, Spec. Com. Rep. No. 2 was adopted and S.R. No. 21, S.D. 1, entitled: “SENATE RESOLUTION REQUESTING THE AUDITOR TO CONDUCT AUDITS OF STATE DEPARTMENT OPERATIONS THAT RESULT IN HIGH NON-BASE COMPENSATION OF STATE AND COUNTY EMPLOYEES, PAY FOR NOT WORKING, AND SALARY OVERPAYMENTS,” was adopted with Senator Taniguchi voting “Aye, with Reservations.”

Stand. Com. Rep. No. 3152 (S.C.R. No. 162, S.D. 1):

Senator Espero moved that Stand. Com. Rep. No. 3152 and S.C.R. No. 162, S.D. 1 be adopted, seconded by Senator Slom.

Senator Slom requested his vote be cast “no,” and the Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 3152 was adopted and S.C.R. No. 162, S.D. 1,

entitled: "SENATE CONCURRENT RESOLUTION URGING HAWAII'S CONGRESSIONAL DELEGATION TO REQUEST THAT THE DIRECTOR OF THE OFFICE OF GLOBAL CHANGE OF THE UNITED STATES DEPARTMENT OF STATE PROPOSE TO THE CONFERENCE OF PARTIES FOR THE UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE THAT THE UNITED STATES HOST THE 2015 UNITED NATIONS CLIMATE CHANGE CONFERENCE IN HONOLULU, HAWAII," was adopted with Senator Slom voting "No."

Stand. Com. Rep. No. 3153 (S.R. No. 8):

On motion by Senator Espero, seconded by Senator Slom and carried, the joint report of the Committees was adopted and S.R. No. 8, entitled: "SENATE RESOLUTION REQUESTING HAWAII'S CONGRESSIONAL DELEGATION TO SUPPORT THE EFFORTS OF THE NATIONAL WOMEN'S HISTORY MUSEUM TO SECURE A PERMANENT HOME IN THE NATION'S CAPITAL," was adopted.

Stand. Com. Rep. No. 3154 (S.C.R. No. 8):

Senator Chun Oakland moved that Stand Com. Rep. No. 3154 and S.C.R. No. 8 be recommitted jointly to the Committee on Human Services and the Committee on Public Safety, Government Operations, and Military Affairs, seconded by Senator Espero.

Senator Chun Oakland noted:

"The Senate adopted the companion H.C.R. No. 18 on April 2, 2012."

The motion was put by the Chair and carried, Stand. Comp. Rep. No. 3154 and S.C.R. No. 8 entitled: "SENATE CONCURRENT RESOLUTION REQUESTING HAWAII'S CONGRESSIONAL DELEGATION TO SUPPORT THE EFFORTS OF THE NATIONAL WOMEN'S HISTORY MUSEUM TO SECURE A PERMANENT HOME IN THE NATION'S CAPITAL," were recommitted jointly to the Committee on Human Services and the Committee on Public Safety, Government Operations, and Military Affairs.

Stand. Com. Rep. No. 3155 (S.C.R. No. 97, S.D. 1):

On motion by Senator Espero, seconded by Senator Slom and carried, the joint report of the Committees was adopted and S.C.R. No. 97, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE INSURANCE COMMISSIONER TO CONVENE A WORKING GROUP TO EXPLORE THE CREATION OF A WEB SERVICES-BASED DATABASE PROGRAM TO TRACK UNINSURED MOTORISTS," was adopted.

Stand. Com. Rep. No. 3156 (S.C.R. No. 73):

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and S.C.R. No. 73, entitled: "SENATE CONCURRENT RESOLUTION URGING THE UNITED NATIONS TO GRANT TAIWAN PARTICIPATION AS AN OBSERVER IN THE UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE CONFERENCE OF THE PARTIES MEETINGS," was adopted.

Stand. Com. Rep. No. 3157 (S.R. No. 32):

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and S.R. No. 32, entitled: "SENATE RESOLUTION URGING THE UNITED NATIONS TO GRANT TAIWAN PARTICIPATION AS AN OBSERVER IN THE UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE

CONFERENCE OF THE PARTIES MEETINGS," was adopted.

FINAL READING

S.B. No. 2503, S.D. 1, H.D. 1:

On motion by Senator Hee, seconded by Senator Shimabukuro and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2503, S.D. 1, and S.B. No. 2503, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ANIMAL CRUELTY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

S.B. No. 3029, S.D. 1, H.D. 1:

On motion by Senator Hee, seconded by Senator Shimabukuro and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 3029, S.D. 1, and S.B. No. 3029, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO STATUTORY REVISION: AMENDING VARIOUS PROVISIONS OF THE HAWAII REVISED STATUTES AND THE SESSION LAWS OF HAWAII FOR THE PURPOSE OF CORRECTING ERRORS AND REFERENCES AND CLARIFYING LANGUAGE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

THIRD READING

H.B. No. 1543, S.D. 1:

Senator Baker moved that H.B. No. 1543, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Taniguchi.

Senator Slom rose to speak in opposition to the measure as follows:

"This bill started out in the House as a simple housekeeping measure for our existing law, but in our gut-and-replace version this bill is clearly unconstitutional. It seeks to unconstitutionally deny contractual rights for automobile manufacturers who are trying to recoup certain costs from retailer dealers. The testimony showed that actually there's only one manufacturer in Hawai'i that seeks to do this—that's Nissan—and there was only one dealer that actually testified for this bill. The sponsors of the bill understand that there are problems with the bill, but I would suggest that there are more than just problems. I think that it does not pass constitutional muster on two parts of the U.S. Constitution; one is the dormant commerce clause and the other is the contracts clause. And there is litigation going on right now, I know, in the State of Florida and other states as well. The discussion was let's see if we can amend the bill or do something later on, but clearly this particular section of the bill is unconstitutional and I don't think, as I always say, we should be passing bills that clearly we have knowledge about being illegally challenged. Thank you."

Senator Baker rose to speak in support of the measure as follows:

"President and colleagues, we passed a very extensive motor vehicle industry licensing law last year. We thought that we had all of the manufacturers in support of that measure, only to find out that there are an outlier or two. This measure is clearly a work in progress. I do take exception to the minority leader's characterization of the measure because he would be then speaking about the underlying law and not necessarily this bill. However, I think because there are discussions going on with the major proponents of the underlying law to try to address the

concern that's been raised, in one of our counties particularly, I think we need to continue to move this measure forward. We will be able to address any legitimate concerns in the conference committee, but we need to have a vehicle so that the discussions will continue. We want to have fruitful discussions, and without a measure we will not be able to bring that recalcitrant manufacturer to the table. Thank you."

Senator Kouchi rose to speak in support of the measure as follows:

"I want to thank the Chair of Consumer Protection for keeping the measure moving. The one participant who is not participating with the alliance started out charging \$70 or \$75 last year—that is passed on to the consumers here in Hawai'i. This year, they have raised that fee to \$225 to the consumers, and they sell 4,000 vehicles annually here in the State of Hawai'i. I think it's part of our duty to try and help protect our consumers and have them paying a fair price with everybody else, so I appreciate the efforts of the chair. Thank you."

The motion was put by the Chair and carried, H.B. No. 1543, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE MOTOR VEHICLE INDUSTRY LICENSING LAW," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Slom).

H.B. No. 1925, H.D. 1, S.D. 1:

On motion by Senator Nishihara, seconded by Senator Espero and carried, H.B. No. 1925, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LIQUOR," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

H.B. No. 2628, H.D. 2:

Senator Baker moved that H.B. No. 2628, H.D. 2, having been read throughout, pass Third Reading, seconded by Senator Taniguchi.

Senator Taniguchi requested his vote be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, H.B. No. 2628, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE RESIDENTIAL LANDLORD-TENANT CODE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25; Ayes with Reservations (Taniguchi). Noes, none.

H.B. No. 1965:

On motion by Senator Baker, seconded by Senator Taniguchi and carried, H.B. No. 1965, entitled: "A BILL FOR AN ACT RELATING TO CONTINUING EDUCATION FOR PHARMACISTS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

H.B. No. 2587, H.D. 1:

On motion by Senator Hee, seconded by Senator Shimabukuro and carried, H.B. No. 2587, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SAILING SCHOOL VESSELS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3148 (H.B. No. 2533, H.D. 2):

On motion by Senator Hee, seconded by Senator Shimabukuro and carried, Stand. Com. Rep. No. 3148 was adopted and H.B. No. 2533, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE DEFINITION OF AGGRAVATED CIRCUMSTANCES IN THE CHILD PROTECTIVE ACT," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3149 (H.B. No. 2162, H.D. 1):

On motion by Senator Hee, seconded by Senator Shimabukuro and carried, Stand. Com. Rep. No. 3149 was adopted and H.B. No. 2162, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO UNIFORM COMMERCIAL CODE ARTICLE 9," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3150 (H.B. No. 2181):

On motion by Senator Hee, seconded by Senator Shimabukuro and carried, Stand. Com. Rep. No. 3150 was adopted and H.B. No. 2181, entitled: "A BILL FOR AN ACT RELATING TO VACANCIES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3151 (H.B. No. 1964, H.D. 2):

On motion by Senator Baker, seconded by Senator Taniguchi and carried, Stand. Com. Rep. No. 3151 was adopted and H.B. No. 1964, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

At this time, the Chair made the following announcement:

"Referrals and re-referrals are made in accordance with the listing on 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 SENATE CONCURRENT RESOLUTION

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

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

S.C.R. No. 107, S.D. 1 Jointly to the Committee on Hawaiian Affairs and the Committee on Economic Development and Technology and the Committee on Ways and Means

RE-REFERRAL OF A SENATE RESOLUTION

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

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

S.R. No. 42 Jointly to the Committee on Agriculture and the Committee on Economic Development and Technology

MISCELLANEOUS BUSINESS

WAIVER OF REFERRAL

Senator Hee, Chair of the Committee on Judiciary and Labor, requested that the referral of H.B. No. 2593, H.D. 2, S.D. 1 to the Committee on Judiciary and Labor be waived.

Senator Hee noted:

“This is to keep the bill moving and the discussion alive.”

The Chair granted the waiver.

On motion by Senator Hee, seconded by Senator Shimabukuro and carried, H.B. No. 2593, H.D. 2, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO EMERGENCY RULES FOR THREATS TO NATURAL RESOURCES OR THE HEALTH OF THE ENVIRONMENT,” was placed on the calendar for Third Reading on Thursday, April 5, 2012.

At this time, Senator Hee rose to speak on a point of personal privilege as follows:

“The other day, I gave a few comments with respect to the Democrat Party, and I received an email from, I guess, he’s the O’ahu County executive officer. I wanted to read it because I thought it was...well, I guess it set me straight:

Aloha Senator Hee: This e-mail is to clarify an issue with your comments made about the Democratic Party. Laura Thielen was not kept from joining the Party; in fact, she’s currently a Party member in good standing and is also a delegate to the state convention. The rule which we applied as so far as running for office states that to run for any office, you must a member of the Democratic Party in good standing for a minimum of six months. The rule was passed at the 2010 convention. I feel that you have somehow been misinformed, and many Democrats in my region have expressed concerns over your potentially damaging remarks toward the Party.

“Well, indeed, I have been misinformed, but I don’t see any potentially damaging remarks that I had made towards the party unless they feel defensive about the rule that they enacted to defend the party. I stand stronger today than yesterday in my belief that if anybody wants to run as a Democrat in any office, they ought to do so. And that any party that concocts a rule to keep people from running is a party that is indeed misinformed. It’s unfortunate, but somebody needs to—well, doesn’t *need* to because after all, the Democrats are in solid control of the Legislature. But it would nice to know what the magic in 6 months is, and whether 6 months are 30-day months, or 31-day months, or 27-day months. Or what is the magic?”

“You know, thirty years ago, along with at least my colleague the Vice President and the House Chairman of Transportation, I think we’re the only ones left that got elected thirty years ago. I suppose if this rule was thirty years old, I wouldn’t be here today because I decided one day to run for office, and I did so. I didn’t ask anybody. I looked at my philosophy and said, ‘Well, I’m a Democrat.’ It does no good to keep people out of seeking elected office. It does just the opposite; and I couldn’t care less what party anybody belonged to. But to defend some magical six-month interlude of being a member in good standing is not what the Democrat Party should be doing, and I suppose somebody from the party could say, ‘Well, where were you at the 2010 convention,’ and I’ll tell you exactly where I was—cleaning my pasture, making better use of my time.

“This idea of a member in good standing of six months has no place. And if people want to talk about former

Representative Bev Harbin as the reason, you can talk until the cows come home because it will not dissuade and does not justify any reason to keep people from running for office. I couldn’t care less what party you ran for. The whole idea about a democracy is that people should be able to put their name up so that voters will be given choices, and that’s really what it’s about. It’s not about the individual in question. It’s about that individual offering her name up as a choice, and that’s really all it is. Nobody here has any propriety rights to the seats we sit on, but rather the responsibility and obligation to hold to the tenets of democracy.

“So while I appreciate this executive of the Democratic Party setting me straight, it’s really making my point. The tragedy in all of this is sending out an email like this, and it’s fair enough, but then hiding behind some cloak of secrecy. Who are the guys who did what they did? And if in fact they stand on the side of righteousness, then let them come forward and take off the cloak of secrecy, and say what it is. And if it is, if she hasn’t been a party member for six months, then they have an obligation to demonstrate what’s the magic in making you a good member in six months.

“Let’s be clear about something, and I don’t know if it’s only me or others as well. I don’t even have a party card from the Democrat Party. Now, I don’t know if you’re supposed to have one, but if you’re supposed to have one, I don’t have one. And if you purchase one, I’m not aware that you purchase one. So, it just makes no sense in my mind, but I appreciate the executive officer in setting me straight and informing me that in fact I was misinformed. Thank you.”

Senator Ryan rose to speak on a point of personal privilege as follows:

“While I agree with most of the comments shared today with my colleague from Kahalu’u—the senior Senator, ranking Democrat, as he’s called on the blogs—what I don’t agree with is that this is not the appropriate place for these comments because it’s partisan; and I have been receiving emails accusing *me* of being involved in this whole situation because I happen to be the short-term incumbent and a former employee of the Democratic Party. The irony of it all is people complaining about this rule actually approved the rule! They were on the state central committee!

“So, I agree with you; and actually, three days before the decision was made, I approached Laura herself in this building and told her I think they should get rid of the rule because I personally feel more candidates, the better for me. And she’s assuming she is an automatic win in our primary—really? She sent a letter saying she’s the only one that can beat Senator Hemmings who used to have this seat. Well, girl, you gotta win your primary first! Isn’t that right?”

“But the continued comments on this floor is creating a lot of misinformation out there, and I felt compelled to stand up and say something because *I* am being accused of being in the middle of this when I stayed very far away from it and another opponent actually spoke against her. So, I just want to make it clear that I invite Miss Thielen to run. We are all ready. And you are right: nobody should be certifying if you are worthy or not, and the GOP, out of all people, should not be telling us who should be a Democrat and what we should be doing for Democrats. They should pay attention to their own party because a lot of them are actually switching to our side. They should be concerned about that. It is true, but with that said, I appreciate your comments, Senator Hee, but I just want to make it clear that I am in no way in favor of her not running. I hope she does run. Thank you.”

At this time, the Chair made the following announcement:

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

ADJOURNMENT

At 12:36 p.m., on motion by Senator Espero, seconded by Senator Slom and carried, the Senate adjourned until 11:30 a.m., Thursday, April 5, 2012.