

FIFTY-FIFTH DAY

Tuesday, April 24, 2012

The Senate of the Twenty-Sixth Legislature of the State of Hawai'i, Regular Session of 2012, convened at 11:35 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-Fourth Day.

At this time, Senator English introduced Hironui Johnston, newly appointed liaison for the French Tahitian government in Hawai'i, who was seated in the gallery.

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 239 to 241 and 1130 to 1157) were read by the Clerk and were placed on file:

Gov. Msg. No. 239, dated April 20, 2012, transmitting a proposed conference draft (C.D. 1) amending H.B. No. 2495, S.D. 1, to fund the supplemental agreement concerning Bargaining Units 2, 3, 4, and 8.

Gov. Msg. No. 240, dated April 20, 2012, transmitting a proposed conference draft (C.D. 1) amending S.B. No. 2323, H.D. 1, to fund the supplemental agreement concerning Bargaining Units 2, 3, 4, 6, and 13.

Gov. Msg. No. 241, dated April 20, 2012, transmitting a proposed conference draft (C.D. 1) amending S.B. No. 2324, H.D. 1, to fund the supplemental agreement concerning Bargaining Units 2, 3, 4, and 13.

Gov. Msg. No. 1130, informing the Senate that on April 20, 2012, the Governor signed into law House Bill No. 1964, H.D. 2 as Act 30, entitled: "RELATING TO HEALTH."

Gov. Msg. No. 1131, informing the Senate that on April 20, 2012, the Governor signed into law Senate Bill No. 2808 as Act 31, entitled: "MAKING AN EMERGENCY APPROPRIATION TO THE DEPARTMENT OF HUMAN SERVICES FOR HEALTH CARE PAYMENTS."

Gov. Msg. No. 1132, informing the Senate that on April 20, 2012, the Governor signed into law House Bill No. 994, H.D. 1 as Act 32, entitled: "RELATING TO MOTOR VEHICLE INSURANCE."

Gov. Msg. No. 1133, informing the Senate that on April 20, 2012, the Governor signed into law House Bill No. 2162, H.D. 1 as Act 33, entitled: "RELATING TO UNIFORM COMMERCIAL CODE ARTICLE 9."

Gov. Msg. No. 1134, informing the Senate that on April 20, 2012, the Governor signed into law Senate Bill No. 3029, S.D. 1, H.D. 1 as Act 34, entitled: "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."

Gov. Msg. No. 1135, informing the Senate that on April 20, 2012, the Governor signed into law House Bill No. 2441, H.D. 2 as Act 35, entitled: "RELATING TO CHILD SUPPORT ENFORCEMENT."

Gov. Msg. No. 1136, informing the Senate that on April 20, 2012, the Governor signed into law House Bill No. 2439, H.D. 1 as Act 36, entitled: "RELATING TO EMPLOYER-UNION HEALTH BENEFITS TRUST FUND."

Gov. Msg. No. 1137, informing the Senate that on April 20, 2012, the Governor signed into law House Bill No. 2458 as Act 37, entitled: "RELATING TO CONVERSIONS BY NONPROFIT CORPORATIONS."

Gov. Msg. No. 1138, informing the Senate that on April 20, 2012, the Governor signed into law House Bill No. 2492, H.D. 1 as Act 38, entitled: "RELATING TO THE HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND."

Gov. Msg. No. 1139, informing the Senate that on April 20, 2012, the Governor signed into law House Bill No. 2578, H.D. 1 as Act 39, entitled: "RELATING TO THE ADVISORY COUNCIL FOR COMMUNITY SERVICES."

Gov. Msg. No. 1140, informing the Senate that on April 20, 2012, the Governor signed into law House Bill No. 2547, H.D. 1 as Act 40, entitled: "MAKING AN EMERGENCY APPROPRIATION TO THE DEPARTMENT OF HUMAN SERVICES."

Gov. Msg. No. 1141, informing the Senate that on April 20, 2012, the Governor signed into law House Bill No. 2539, H.D. 1 as Act 41, entitled: "RELATING TO ADULT ABUSE PERPETRATOR CHECKS FOR CHILD CARE PROVIDERS."

Gov. Msg. No. 1142, informing the Senate that on April 20, 2012, the Governor signed into law Senate Bill No. 2229, S.D. 2, H.D. 1 as Act 42, entitled: "RELATING TO VACCINATIONS."

Gov. Msg. No. 1143, informing the Senate that on April 23, 2012, the Governor signed into law House Bill No. 2628, H.D. 2 as Act 43, entitled: "RELATING TO THE RESIDENTIAL LANDLORD-TENANT CODE."

Gov. Msg. No. 1144, informing the Senate that on April 23, 2012, the Governor signed into law House Bill No. 1698 as Act 44, entitled: "RELATING TO QUALIFIED COMMUNITY REHABILITATION PROGRAMS."

Gov. Msg. No. 1145, informing the Senate that on April 23, 2012, the Governor signed into law House Bill No. 2254, H.D. 1 as Act 45, entitled: "RELATING TO THE PRETAX TRANSPORTATION BENEFIT."

Gov. Msg. No. 1146, informing the Senate that on April 23, 2012, the Governor signed into law Senate Bill No. 2337, S.D. 1 as Act 46, entitled: "RELATING TO TRANSPORTATION."

Gov. Msg. No. 1147, informing the Senate that on April 23, 2012, the Governor signed into law Senate Bill No. 2874, S.D. 1 as Act 47, entitled: "RELATING TO AIRPORT REVENUE."

Gov. Msg. No. 1148, informing the Senate that on April 23, 2012, the Governor signed into law House Bill No. 1744, H.D. 1 as Act 48, entitled: "RELATING TO COMPENSATION."

Gov. Msg. No. 1149, informing the Senate that on April 23, 2012, the Governor signed into law Senate Bill No. 2671, S.D. 1 as Act 49, entitled: "RELATING TO COLLECTIVE BARGAINING."

Gov. Msg. No. 1150, informing the Senate that on April 23, 2012, the Governor signed into law House Bill No. 2602, H.D. 2 as Act 50, entitled: "RELATING TO CREDIT FOR TIME OF DETENTION PRIOR TO SENTENCE."

Gov. Msg. No. 1151, informing the Senate that on April 23, 2012, the Governor signed into law House Bill No. 2598, H.D. 1 as Act 51, entitled: "RELATING TO PRE-SENTENCE REPORTS."

Gov. Msg. No. 1152, informing the Senate that on April 23, 2012, the Governor signed into law House Bill No. 2508, H.D. 1 as Act 52, entitled: "RELATING TO COLLECTION AGENCIES."

Gov. Msg. No. 1153, informing the Senate that on April 23, 2012, the Governor signed into law House Bill No. 2023 as Act 53, entitled: "RELATING TO THE CENTER FOR NURSING."

Gov. Msg. No. 1154, informing the Senate that on April 23, 2012, the Governor signed into law Senate Bill No. 2759, S.D. 1 as Act 54, entitled: "RELATING TO SECURITIES."

Gov. Msg. No. 1155, informing the Senate that on April 23, 2012, the Governor signed into law Senate Bill No. 2752, S.D. 1 as Act 55, entitled: "RELATING TO ELECTRIC UTILITIES."

Gov. Msg. No. 1156, informing the Senate that on April 23, 2012, the Governor signed into law House Bill No. 2591, H.D. 2 as Act 56, entitled: "RELATING TO ACCRETED LANDS."

Gov. Msg. No. 1157, informing the Senate that on April 23, 2012, the Governor signed into law Senate Bill No. 2850, S.D. 1, H.D. 2 as Act 57, entitled: "RELATING TO GROUNDED VESSELS."

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 652 to 668) were read by the Clerk and were disposed of as follows:

Hse. Com. No. 652, informing the Senate that on April 23, 2012, the Speaker appointed conferees on the part of the House for the consideration of amendments proposed by the House to the following Senate bills:

S.B. No. 2323, S.D. 1 (H.D. 1):

Representatives Rhoads, Oshiro, co-chairs; Ward.

S.B. No. 2324, S.D. 1 (H.D. 1):

Representatives Rhoads, Oshiro, co-chairs; Ward,
was placed on file.

Hse. Com. No. 653, informing the Senate that on April 23, 2012, the Speaker appointed conferees on the part of the House for the consideration of amendments proposed by the Senate to the following House bill:

H.B. No. 2495, H.D. 1 (S.D. 1):

Representatives Rhoads, Oshiro, co-chairs; Ward,
was placed on file.

Hse. Com. No. 654, returning S.C.R. No. 176, which was adopted by the House of Representatives on April 23, 2012, was placed on file.

Hse. Com. No. 655, returning S.C.R. No. 63, S.D. 1, which was adopted by the House of Representatives on April 23, 2012, was placed on file.

Hse. Com. No. 656, returning S.C.R. No. 87, S.D. 1, which was adopted by the House of Representatives on April 23, 2012, was placed on file.

Hse. Com. No. 657, returning S.C.R. No. 109, S.D. 1, which was adopted by the House of Representatives on April 23, 2012, was placed on file.

Hse. Com. No. 658, returning S.C.R. No. 40, S.D. 1, as amended in H.D. 1, which was adopted by the House of Representatives on April 23, 2012, was placed on file.

By unanimous consent, action on S.C.R. No. 40, S.D. 1 (H.D. 1), entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE RENAMING OF AND THE EXTENSION OF THE PROMPT PAYMENT TASK FORCE TO DEVELOP RECOMMENDATIONS TO ADDRESS ISSUES THAT AFFECT PROCUREMENT FOR GOODS AND SERVICES PURCHASED THROUGH NONPROFIT ORGANIZATIONS, INCLUDING HUMAN SERVICE NONPROFIT ORGANIZATIONS THAT DELIVER PIVOTAL GOODS AND SERVICES TO INDIVIDUALS, FAMILIES, COMMUNITIES, AND OTHER SMALL BUSINESSES," was deferred until Wednesday, April 25, 2012.

Hse. Com. No. 659, returning S.C.R. No. 49, S.D. 1, as amended in H.D. 1, which was adopted by the House of Representatives on April 23, 2012, was placed on file.

By unanimous consent, action on S.C.R. No. 49, S.D. 1 (H.D. 1), entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF TRANSPORTATION TO FORM A WORKING GROUP TO EXPEDITIOUSLY RESOLVE THE ISSUE OF ROADS IN LIMBO STATEWIDE," was deferred until Wednesday, April 25, 2012.

Hse. Com. No. 660, returning S.C.R. No. 73, as amended in H.D. 1, which was adopted by the House of Representatives on April 23, 2012, was placed on file.

By unanimous consent, action on S.C.R. No. 73 (H.D. 1), 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," was deferred until Wednesday, April 25, 2012.

Hse. Com. No. 661, returning S.C.R. No. 137, S.D. 1, as amended in H.D. 1, which was adopted by the House of Representatives on April 23, 2012, was placed on file.

By unanimous consent, action on S.C.R. No. 137, S.D. 1 (H.D. 1), entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE OFFICE OF AEROSPACE DEVELOPMENT TO DEVELOP AND PROMOTE A PARTNERSHIP IN AEROSPACE WITH THE STATE OF ALASKA TO EXPAND AND DIVERSIFY BOTH STATES' ECONOMIES AND THE UNITED STATES SPACE PROGRAM," was deferred until Wednesday, April 25, 2012.

Hse. Com. No. 662, informing the Senate that the House agreed to the amendments proposed by the Senate to the following House concurrent resolutions and said resolutions were finally adopted in the House of Representatives on April 23, 2012:

H.C.R. No. 12, S.D. 1;
H.C.R. No. 143, S.D. 1; and
H.C.R. No. 150, S.D. 1,

was placed on file.

Hse. Com. No. 663, informing the Senate that on April 23, 2012, the House reconsidered its action taken on April 12, 2012, in disagreeing to the amendments proposed by the Senate to the following House bills:

H.B. No. 1764, H.D. 1 (S.D. 1); and

H.B. No. 2295, H.D. 1 (S.D. 2),
was placed on file.

Hse. Com. No. 664, informing the Senate that on April 23, 2012, the House reconsidered its action taken on April 3, 2012, in disagreeing to the amendments proposed by the Senate to H.B. No. 1695 (S.D. 1), was placed on file.

Hse. Com. No. 665, informing the Senate that on April 23, 2012, the House reconsidered its action taken on March 28, 2012, in disagreeing to the amendments proposed by the Senate to H.B. No. 2584, H.D. 1 (S.D. 1), was placed on file.

Hse. Com. No. 666, 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 23, 2012:

H.B. No. 1524, H.D. 2, S.D. 2;
H.B. No. 2242, H.D. 1, S.D. 1;
H.B. No. 2264, H.D. 2, S.D. 1;
H.B. No. 2266, H.D. 1, S.D. 1;
H.B. No. 2273, S.D. 1;
H.B. No. 2296, H.D. 1, S.D. 1;
H.B. No. 2429, H.D. 1, S.D. 1; and
H.B. No. 2656, H.D. 2, S.D. 2,

was placed on file.

Hse. Com. No. 667, informing the Senate that on April 23, 2012, the House discharged all conferees to H.B. No. 46, H.D. 2, (S.D. 2), was placed on file.

Hse. Com. No. 668, informing the Senate that on April 23, 2012, the Speaker appointed conferees on the part of the House for the consideration of amendments proposed by the Senate to the following House bill:

H.B. No. 2290, H.D. 1 (S.D. 2):

Representatives Mizuno, Jordan, co-chairs; Pine,

was placed on file.

CONFERENCE COMMITTEE REPORTS

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. 824, S.D. 2, presented a report (Conf. Com. Rep. No. 5-12) recommending that S.B. No. 824, S.D. 2, H.D. 2, as amended in C.D. 1, pass Final Reading.

In accordance with Article III, Section 15 of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 5-12 and S.B. No. 824, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR CARRIERS," was deferred for a period of 48 hours.

Senator Baker, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House to S.B. No. 2419, S.D. 2, presented a report (Conf. Com. Rep. No. 6-12) recommending that S.B. No. 2419, S.D. 2, H.D. 3, as amended in C.D. 1, pass Final Reading.

In accordance with Article III, Section 15 of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 6-12 and S.B. No. 2419, S.D. 2, H.D. 3, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PERSONAL INFORMATION," was deferred for a period of 48 hours.

Senator Green, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate to H.B. No. 1957, H.D. 2, presented a report (Conf. Com. Rep. No. 28-12) recommending that H.B. No. 1957, H.D. 2, S.D. 2, as amended in C.D. 1, pass Final Reading.

In accordance with Article III, Section 15 of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 28-12 and H.B. No. 1957, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH CARE INFORMATION," was deferred for a period of 48 hours.

STANDING COMMITTEE REPORTS

Senator Tokuda, for the Committee on Education, presented a report (Stand. Com. Rep. No. 3556) recommending that the Senate advise and consent to the nomination of JAMES HASTINGS to the Hawai'i Medical Education Council, in accordance with Gov. Msg. No. 879.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 3556 and Gov. Msg. No. 879 was deferred until Wednesday, April 25, 2012.

Senator Tokuda, for the Committee on Education, presented a report (Stand. Com. Rep. No. 3557) recommending that the Senate advise and consent to the nominations to the Hawai'i Medical Education Council of the following:

GARY KAJIWARA, in accordance with Gov. Msg. No. 880;

VICKI MCMANUS, in accordance with Gov. Msg. No. 881;

KENNETH ROBBINS, in accordance with Gov. Msg. No. 882;

DARRYL SALVADOR, in accordance with Gov. Msg. No. 883;

SHARON VITOUSEK, in accordance with Gov. Msg. No. 884; and

PAULA YOSHIOKA, in accordance with Gov. Msg. No. 885.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 3557 and Gov. Msg. Nos. 880, 881, 882, 883, 884, and 885 was deferred until Wednesday, April 25, 2012.

Senator Tokuda, for the Committee on Education, presented a report (Stand. Com. Rep. No. 3558) recommending that the Senate advise and consent to the nomination of ALAN OSHIMA to the Education Commission of the States, in accordance with Gov. Msg. No. 906.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 3558 and Gov. Msg. No. 906 was deferred until Wednesday, April 25, 2012.

Senator Tokuda, for the Committee on Education, presented a report (Stand. Com. Rep. No. 3559) recommending that the Senate advise and consent to the nominations to the Hawai'i Teacher Standards Board of the following:

WRAY JOSE, in accordance with Gov. Msg. No. 907; and

FELICIA VILLALOBOS, in accordance with Gov. Msg. No. 908.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 3559 and Gov. Msg. Nos. 907 and 908 was deferred until Wednesday, April 25, 2012.

Senator Galuteria, for the Committee on Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 3560) recommending that the Senate advise and consent to the nominations to the Island Burial Council, Island of Hawai'i of the following:

MARY MAXINE KAHAULELIO, in accordance with Gov. Msg. No. 891; and

KEITH UNGER, in accordance with Gov. Msg. No. 892.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 3560 and Gov. Msg. Nos. 891 and 892 was deferred until Wednesday, April 25, 2012.

Senator Galuteria, for the Committee on Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 3561) recommending that the Senate advise and consent to the nomination of NATHAN KALAMA to the Island Burial Council, Islands of Kaaui and Ni'ihau, in accordance with Gov. Msg. No. 894.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 3561 and Gov. Msg. No. 894 was deferred until Wednesday, April 25, 2012.

Senator Galuteria, for the Committee on Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 3562) recommending that the Senate advise and consent to the nominations to the Island Burial Council, Islands of Maui and Lana'i of the following:

KALANI HO, in accordance with Gov. Msg. No. 895; and

LEIANE PACI, in accordance with Gov. Msg. No. 896.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 3562 and Gov. Msg. Nos. 895 and 896 was deferred until Wednesday, April 25, 2012.

Senator Galuteria, for the Committee on Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 3563) recommending that the Senate advise and consent to the nomination of ELTON MAGALLANES to the Island Burial Council, Island of O'ahu, in accordance with Gov. Msg. No. 897.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 3563 and Gov. Msg. No. 897 was deferred until Wednesday, April 25, 2012.

Senator Galuteria, for the Committee on Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 3564) recommending that the Senate advise and consent to the nominations to the Hawaiian Homes Commission of the following:

LEIMANA DAMATE, in accordance with Gov. Msg. No. 909; and

GENE ROSS DAVIS, in accordance with Gov. Msg. No. 910.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 3564 and Gov. Msg. Nos. 909 and 910 was deferred until Wednesday, April 25, 2012.

Senator Hee, for the Committee on Judiciary and Labor, presented a report (Stand. Com. Rep. No. 3565) recommending that the Senate advise and consent to the nominations to the Commission to Promote Uniform Legislation of the following:

PETER HAMASAKI, in accordance with Gov. Msg. No. 752; and

KEVIN SUMIDA, in accordance with Gov. Msg. No. 753.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 3565 and Gov. Msg. Nos. 752 and 753 was deferred until Wednesday, April 25, 2012.

Senator Hee, for the Committee on Judiciary and Labor, presented a report (Stand. Com. Rep. No. 3566) recommending that the Senate consent to the nomination of ADRIANNE N. HEELY to the District Family Court of the Second Circuit, State of Hawaii, in accordance with Jud. Com. No. 8.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 3566 and Jud. Com. No. 8 was deferred until Wednesday, April 25, 2012.

Senators Tokuda and Nishihara, for the Committee on Education and the Committee on Agriculture, presented a joint report (Stand. Com. Rep. No. 3567) recommending that H.C.R. No. 104 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 3567 and H.C.R. No. 104, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE UNIVERSITY OF HAWAII TO DESIGNATE THE MAGOON RESEARCH AND TEACHING FACILITY SITE FOR THE UNIVERSITY OF HAWAII AT MANOA COLLEGE OF TROPICAL AGRICULTURE AND HUMAN RESOURCES," was deferred until Wednesday, April 25, 2012.

Senators Tokuda and Galuteria, for the Committee on Education and the Committee on Hawaiian Affairs, presented a joint report (Stand. Com. Rep. No. 3568), recommending that H.C.R. No. 85 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 H.C.R. No. 85, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE BOARD OF EDUCATION AND DEPARTMENT OF EDUCATION TO COMPLY IN FULL WITH THE FINDINGS AND RECOMMENDATIONS OF THE OFFICE OF THE AUDITOR'S MANAGEMENT AUDIT OF THE DEPARTMENT OF EDUCATION'S HAWAIIAN STUDIES PROGRAM," was referred to the Committee on Ways and Means.

ORDER OF THE DAY

ADVISE AND CONSENT

Stand. Com. Rep. No. 3552 (Gov. Msg. No. 798):

Senator Hee moved that Stand. Com. Rep. No. 3552 be received and placed on file, seconded by Senator Shimabukuro and carried.

Senator Hee then moved that the Senate advise and consent to the nomination of TRISTAN ALDEGUER to the Hoisting Machine Operators Advisory Board, term to expire June 30, 2016, seconded by Senator Shimabukuro.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3553 (Gov. Msg. Nos. 841 and 842):

Senator Hee moved that Stand. Com. Rep. No. 3553 be received and placed on file, seconded by Senator Shimabukuro and carried.

Senator Hee then moved that the Senate advise and consent to the nominations to the Board of Registration of the Islands of Maui, Moloka'i, Lana'i, and Kaho'olawe of the following:

BRANDON STARR, term to expire June 30, 2016 (Gov. Msg. No. 841); and

GENNARO ZARRO, JR., term to expire June 30, 2016 (Gov. Msg. No. 842),

seconded by Senator Shimabukuro.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3554 (Gov. Msg. Nos. 843, 844, 845, 846, 847, and 848):

Senator Hee moved that Stand. Com. Rep. No. 3554 be received and placed on file, seconded by Senator Shimabukuro and carried.

Senator Hee then moved that the Senate advise and consent to the nominations to the Language Access Advisory Council of the following:

MELBA BANTAY, term to expire June 30, 2016 (Gov. Msg. No. 843);

JENNIFER DOTSON, term to expire June 30, 2015 (Gov. Msg. No. 844);

MARGARITA HOPKINS, term to expire June 30, 2016 (Gov. Msg. No. 845);

DOMINIC INOCELDA, term to expire June 30, 2016 (Gov. Msg. No. 846);

GERALD OHTA, term to expire June 30, 2016 (Gov. Msg. No. 847); and

MARY SANTA MARIA, term to expire June 30, 2016 (Gov. Msg. No. 848),

seconded by Senator Shimabukuro.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3555 (Gov. Msg. Nos. 898 and 899):

Senator Hee moved that Stand. Com. Rep. No. 3555 be received and placed on file, seconded by Senator Shimabukuro and carried.

Senator Hee then moved that the Senate advise and consent to the nominations to the Hoisting Machine Operators Advisory Board of the following:

DONALD GENTZLER, term to expire June 30, 2013 (Gov. Msg. No. 898); and

PAUL JOHNSTON, JR., term to expire June 30, 2016 (Gov. Msg. No. 899),

seconded by Senator Shimabukuro.

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

Ayes, 25. Noes, none.

FINAL READING

S.B. No. 2534, S.D. 2, H.D. 2:

Senator Tokuda moved that S.B. No. 2534, S.D. 2, H.D. 2, having been read throughout, pass Final Reading, seconded by Senator Dela Cruz.

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

“Because the bill does create a new special fund, I will be voting in opposition. Thank you.”

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2534, S.D. 2, and S.B. No. 2534, S.D. 2, H.D. 2, entitled: “A BILL FOR AN ACT RELATING TO PUBLIC SCHOOL FACILITIES,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Slom).

S.B. No. 2630, H.D. 2:

On motion by Senator Espero, seconded by Senator Baker and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2630, and S.B. No. 2630, H.D. 2, entitled: “A BILL FOR AN ACT RELATING TO NOISE,” 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. 223, S.D. 1 (H.D. 1):

Senator Hee moved that the Senate reconsider its action taken on April 12, 2012, in disagreeing to the amendments proposed by the House to S.B. No. 223, S.D. 1, seconded by Senator Espero and carried.

In accordance with the Conference Committee Procedures agreed upon by the Senate and the House of Representatives, the managers on the part of the Senate recommended that the Senate agree to the amendments proposed by the House to S.B. No. 223, S.D. 1, on the following showing of Ayes and Noes:

Ayes, 2 (Hee, Shimabukuro). Noes, none. Excused, 1 (Slom).

Senator Hee then moved that the Senate agree to the amendments made by the House to S.B. No. 223, S.D. 1, seconded by Senator Espero.

Senator Hee noted:

“The House amendment actually makes the bill stronger. In responding to domestic abuse situations, it requires the police to send, generally speaking, it is the male offender away from the house for no less than 24 hours; and sometimes on the weekend, according to their discretion, it may be longer. It’s no longer a ‘may’; it’s a ‘shall’.”

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 223, S.D. 1 and S.B. No. 223, S.D. 1, H.D. 1, entitled: “A BILL FOR AN ACT RELATING TO DOMESTIC ABUSE ORDERS,” was placed on the calendar for Final Reading on Wednesday, April 25, 2012.

S.B. No. 2228, S.D. 2 (H.D. 2):

Senator Green moved that the Senate reconsider its action taken on April 12, 2012, in disagreeing to the amendments proposed by the House to S.B. No. 2228, S.D. 2, seconded by Senator Espero and carried.

In accordance with the Conference Committee Procedures agreed upon by the Senate and the House of Representatives, the managers on the part of the Senate recommended that the Senate agree to the amendments proposed by the House to S.B. No. 2228, S.D. 2, on the following showing of Ayes and Noes:

Ayes, 3 (Green, Baker, Espero). Noes, none. Excused, none.

Senator Green then moved that the Senate agree to the amendments made by the House to S.B. No. 2228, S.D. 2, seconded by Senator Espero.

Senator Green noted:

“The House had a slightly more practical approach to tracking Sudafed. We’re trying to clamp down on people who do what’s called ‘smurfing,’ which is going store to store buying fairly large amounts of Sudafed, and then giving it to centralized areas where they might create the drug crystal

methamphetamine. So, we're taking incremental steps to stop this action, so this was a good tracking step and this was a compromise with the House."

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2228, S.D. 2 and S.B. No. 2228, S.D. 2, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO PSEUDOEPHEDRINE," was placed on the calendar for Final Reading on Wednesday, April 25, 2012.

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

"Colleagues, I think we're all aware right now of a recent judicial action in our community involving a plea bargain. And while it's always the case whenever we learn about judicial matters, there's always material that has not been disclosed or published, but this incident seems to be so egregious that I think we need to stand up and say something about it, particularly when, in our Senate deliberations, we're always talking about our concern for the keiki, our concern for women, our concern involving domestic violence. And yet, here is an instance that is really intolerable, and no one has stepped forward to say anything about this. And what I'm speaking about specifically is the plea bargain that was entered yesterday in Circuit Court involving a man who pleaded no contest to repeatedly raping and brutalizing a young woman under the age of 14, and who also beat up brutally her older brother who came to her aid and tried to stop the violence.

"There were four counts of second degree sexual assault entered against the defendant. The aggravated assault against the brother for some reason was dropped by the prosecutor, and there was a plea agreement that was reached. They said it was for the benefit of the young victim, the 14-year-old girl, so that she wouldn't have to testify in court, so that she wouldn't have to see her accuser again, so that nothing would happen transparently. So, what did the plea bargain amount to? It amounted to a sentence, or an agreement, of five years of probation—not one hour of jail time. Oh yes, the offender must register as a sex offender for the rest of his life, and we've been told there will be zero tolerance if he so much as jaywalks—boy, there will be harsh consequences. And yet, we know people that have supposed to have registered as sex offenders did not, or did not update their information; and we do know that the brutalization of our children in this community has continued and that this is not an isolated case.

"My question is those people that have no faith in government, or very little faith, those people that question the judiciary and feel that there's no justice, how do they feel after a case like this? How do we feel? We are the policymakers. Right now, one of the controversial pieces of legislation in our conference committees has to do with the Justice Reinvestment Initiative, a process of which I was a part. I think there are many good things in that initiative, but the city prosecutor warned that there would be unintended consequences for public safety. And in the rush to make the judicial system more efficient and in the rush to bring prisoners back home from other states and to release low-risk prisoners, I fear that we are endangering our population more, and this is the primary function of government—to provide protection. And this protection has obviously failed.

"Is this young girl and her brother going to feel safer because she didn't testify in open court against the man who brutalized her, knowing now that he is out on the street? And what about the prosecutor? The deputy prosecutor that handled the case said, 'It was very difficult to reach this kind of plea agreement, but we did.' Judge Karen Ahn said, 'This is very difficult, but my hands are tied.' And yet, that's not true because judges have the ability to throw out plea agreements if they are either

harmful to the victim or to public policy; and in this case, Mr. President, colleagues, I would say that it's both harmful to the victim and to public policy.

"And I ask where are all the groups that get money from the Legislature to support the keiki? Where are the groups that are opposed to domestic violence? Where are the groups that are supportive of women? Are women issues just about reproductive rights? And what about us? We have the responsibility—the primary responsibility, as I say—for protection, protection of our public, and they don't think we're doing a good job.

"I think we need to do more. As I said at the outset, there certainly may be more facets of this particular case, but the fact that this man is going to be walking among us and still having the possibility of endangering the victim a second time, I believe, is outrageous; and I think more people in this community should stand up about this. Thank you, Mr. President."

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

"First of all, I'd like to agree with the previous speaker and also state my outrage at the decision made in the courts. I do know that this Legislature has had before it legislation that would at the very least provide mandatory prison for the sexual assault of a minor. In the past, I have introduced those types of bills; however, they have never been heard. But hopefully, this incident will create the community to reflect and think about what type of measures they expect and want this Legislature to pass. I do believe that it is unfair and wrong for the previous speaker to mention the Justice Reinvestment Initiative bills, which are looking at efficiencies within our corrections and judicial system and looking at reforms to make the whole system better, because currently our recidivism rate is 50 percent. At one point, it was 70 percent, and that is unacceptable. So, to say that what we have had in place is working may not be a best statement to make as well.

"On a lighter note, I would like to congratulate the Hawai'i Preparatory Academy on the Big Island and 'Ewa Makai Middle School in 'Ewa Beach for receiving the first ever U.S. Department of Education Green Ribbon Schools. These are 2 schools out of 78 in the nation that are being recognized for their efforts in protecting our environment and looking at green initiatives. So, congratulations again to Hawai'i Preparatory Academy and 'Ewa Makai Middle School. Thank you."

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

"First, let me just say that I also agree with our minority leader. I stand with him as far as being outraged, and I believe that we need to take an affirmative stance that something will be done and we look into this. On another note, I want to congratulate DLNR for their quick action on the Kula Kolea boulder incident that happened over the weekend—being able to locate funds to help the residents, and that action will start this weekend to minimize the potential of more boulders rolling down the hill. So, I really want to thank them for their action on that. Thank you."

At this time, the Chair made the following announcements:

"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.

"Conferees are named in accordance with the action sheets to be distributed to your offices later today."

APPOINTMENT AND DISCHARGE OF CONFEREES

S.B. No. 1269, 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. 1269, S.D. 2, and the request for a conference on the subject matter thereof, the President appointed Senators Hee, chair; Shimabukuro, Ige, co-chairs; Slom as manager on the part of the Senate at such conference.

H.B. No. 1706, H.D. 1 (S.D. 1):

The President discharged all conferees on the part of the Senate at the conference to be held for the consideration of amendments proposed by the Senate to H.B. No. 1706, H.D. 1.

H.B. No. 2175, H.D. 2 (S.D. 1):

In accordance with the disagreement of the House to the amendments proposed by the Senate to H.B. No. 2175, H.D. 2, and the request for a conference on the subject matter thereof, the President appointed Senators Hee, chair; Shimabukuro, Gabbard, co-chairs; Ihara as manager on the part of the Senate at such conference.

H.B. No. 2417, H.D. 2 (S.D. 2):

The President appointed Senator Kouchi as manager on the part of the Senate at the conference to be held for the consideration of amendments proposed by the Senate to H.B. No. 2417, H.D. 2.

ADJOURNMENT

At 11:52 a.m., on motion by Senator Espero, seconded by Senator Slom and carried, the Senate adjourned until 11:30 a.m., Wednesday, April 25, 2012.