

FORTY-FIRST DAY

Friday, April 1, 2005

The Senate of the Twenty-Third Legislature of the State of Hawaii, Regular Session of 2005, convened at 11:45 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by the Students of Punana Leo O Kawaiha'o, directed by Ms. Manu Williams, after which the Roll was called showing all Senators present.

The President announced that he had read and approved the Journal of the Fortieth Day.

At 11:58 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:04 o'clock p.m.

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 381 to 388) were read by the Clerk and were disposed of as follows:

Hse. Com. No. 381, transmitting H.C.R. No. 8, which was adopted by the House of Representatives on March 31, 2005, was placed on file.

By unanimous consent, action on H.C.R. No. 8, entitled: "HOUSE CONCURRENT RESOLUTION DESIGNATING THE MONTH OF JANUARY AS CERVICAL CANCER AWARENESS MONTH," was deferred until Monday, April 4, 2005.

Hse. Com. No. 382, transmitting H.C.R. No. 34, which was adopted by the House of Representatives on March 31, 2005, was placed on file.

By unanimous consent, action on H.C.R. No. 34, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE STATE TO ACHIEVE UNIVERSAL HEALTH CARE BY 2012," was deferred until Monday, April 4, 2005.

Hse. Com. No. 383, transmitting H.C.R. No. 225, H.D. 1, which was adopted by the House of Representatives on March 31, 2005, was placed on file.

By unanimous consent, action on H.C.R. No. 225, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DIRECTOR OF TRANSPORTATION TO UNDERTAKE A TRAFFIC LIGHT STUDY OF THE INTERSECTION OF KALANIANA'OLE HIGHWAY AND ULUPUI STREET IN KAILUA, OAHU," was deferred until Monday, April 4, 2005.

At 12:05 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:05 o'clock p.m.

Hse. Com. No. 384, returning S.B. No. 780, which passed Third Reading in the House of Representatives on March 31, 2005, was placed on file.

Hse. Com. No. 385, returning S.B. No. 778, S.D. 1, which passed Third Reading in the House of Representatives on March 31, 2005, was placed on file.

Hse. Com. No. 386, returning S.B. No. 782, S.D. 1, which passed Third Reading in the House of Representatives on March 31, 2005, was placed on file.

Hse. Com. No. 387, returning S.B. No. 1210, which passed Third Reading in the House of Representatives on March 31, 2005, was placed on file.

Hse. Com. No. 388, returning S.B. No. 1249, which passed Third Reading in the House of Representatives on March 31, 2005, was placed on file.

STANDING COMMITTEE REPORTS

Senator Hanabusa, for the Committee on Judiciary and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 1332) recommending that H.B. No. 1413, 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 Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and H.B. No. 1413, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED," passed Second Reading and was placed on the calendar for Third Reading on Monday, April 4, 2005.

Senator Hanabusa, for the Committee on Judiciary and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 1333) recommending that H.B. No. 1450, 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 Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and H.B. No. 1450, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CIVIL RIGHTS," passed Second Reading and was placed on the calendar for Third Reading on Monday, April 4, 2005.

Senator Hanabusa, for the Committee on Judiciary and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 1334) recommending that H.B. No. 1453, 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 Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and H.B. No. 1453, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ANIMALS," passed Second Reading and was placed on the calendar for Third Reading on Monday, April 4, 2005.

Senator Baker, for the Committee on Health, presented a report (Stand. Com. Rep. No. 1335) recommending that the Senate advise and consent to the nomination of RUSSELL T. STODD MD to the Board of Directors of the Hawaii Health Systems Corporation, in accordance with Gov. Msg. No. 395.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1335 and Gov. Msg. No. 395 was deferred until Monday, April 4, 2005.

Senator Hee, for the Committee on Higher Education, presented a report (Stand. Com. Rep. No. 1336), recommending that S.C.R. No. 180, as amended in S.D. 1, be referred to the Committee on Ways and Means.

On motion by Senator Hee, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.C.R. No. 180, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE UNIVERSITY OF HAWAII TO CONDUCT A STUDY OF STATE FUNDING CRITERIA AND MODELS UTILIZED AT OTHER PUBLICLY FUNDED INSTITUTIONS OF HIGHER EDUCATION FOR A PER STUDENT FUNDING FORMULA," was referred to the Committee on Ways and Means.

ORDER OF THE DAY

ADVISE AND CONSENT

Stand. Com. Rep. No. 1318 (Gov. Msg. No. 145):

Senator Menor moved that Stand. Com. Rep. No. 1318 be received and placed on file, seconded by Senator Baker and carried.

Senator Menor then moved that the Senate advise and consent to the nomination of WAYNE M. SHINTANI to the Credit Union Advisory Board, term to expire June 30, 2008, seconded by Senator Baker.

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. 1319 (Gov. Msg. Nos. 148 and 149):

Senator Menor moved that Stand. Com. Rep. No. 1319 be received and placed on file, seconded by Senator Baker and carried.

Senator Menor then moved that the Senate advise and consent to the nominations to the Board of Dental Examiners of the following:

ARMAND K. CHONG DDS, FAGD, term to expire June 30, 2008 (Gov. Msg. No. 148); and

RANDALL S. CISLO D.M.D., term to expire June 30, 2008 (Gov. Msg. No. 149),

seconded by Senator Baker.

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. 1320 (Gov. Msg. Nos. 166, 167 and 168):

Senator Menor moved that Stand. Com. Rep. No. 1320 be received and placed on file, seconded by Senator Baker and carried.

Senator Menor then moved that the Senate advise and consent to the nominations to the Board of Professional Engineers, Architects, Surveyors, and Landscape Architects of the following:

OSCAR PORTUGAL, term to expire June 30, 2008 (Gov. Msg. No. 166);

RICHARD M. SUZUKI P.E., term to expire June 30, 2006 (Gov. Msg. No. 167); and

MARC VENTURA AIA, term to expire June 30, 2008 (Gov. Msg. No. 168),

seconded by Senator Baker.

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. 1326 (Gov. Msg. No. 388):

Senator Hanabusa moved that Stand. Com. Rep. No. 1326 be received and placed on file, seconded by Senator Hee and carried.

Senator Hanabusa then moved that the Senate advise and consent to the nomination of ROGER DANIEL RIZZO to the Civil Rights Commission, term to expire June 30, 2009, seconded by Senator Hee.

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. 1327 (Gov. Msg. Nos. 139, 140, 141 and 142):

Senator Menor moved that Stand. Com. Rep. No. 1327 be received and placed on file, seconded by Senator Baker and carried.

Senator Menor then moved that the Senate advise and consent to the nominations to the Contractors License Board of the following:

ANACLETO ALCANTRA SR., term to expire June 30, 2008 (Gov. Msg. No. 139);

DENNY R. SADOWSKI, term to expire June 30, 2008 (Gov. Msg. No. 140);

NICHOLAS W. TEVES JR., term to expire June 30, 2008 (Gov. Msg. No. 141); and

THOMAS B. VINCENT, term to expire June 30, 2008 (Gov. Msg. No. 142),

seconded by Senator Baker.

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. 1328 (Gov. Msg. Nos. 204, 205 and 206):

Senator Menor moved that Stand. Com. Rep. No. 1328 be received and placed on file, seconded by Senator Baker and carried.

Senator Menor then moved that the Senate advise and consent to the nominations to the Board of Medical Examiners of the following:

M. PIERRE K. W. PANG MD, term to expire June 30, 2008 (Gov. Msg. No. 204);

FEREYDOUN DON PARSA MD, term to expire June 30, 2006 (Gov. Msg. No. 205); and

G. MARKUS POLIVKA, term to expire June 30, 2007 (Gov. Msg. No. 206),

seconded by Senator Baker.

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. 1329 (Gov. Msg. Nos. 227 and 228):

Senator Menor moved that Stand. Com. Rep. No. 1329 be received and placed on file, seconded by Senator Baker and carried.

Senator Menor then moved that the Senate advise and consent to the nominations to the Motor Vehicle Repair Industry Board of the following:

BILL W. GREEN, term to expire June 30, 2007 (Gov. Msg. No. 227); and

RICHARD Y. MITSUMORI, term to expire June 30, 2007 (Gov. Msg. No. 228),

seconded by Senator Baker.

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. 1330 (Gov. Msg. No. 238):

Senator Menor moved that Stand. Com. Rep. No. 1330 be received and placed on file, seconded by Senator Baker and carried.

Senator Menor then moved that the Senate advise and consent to the nomination of JANET M. WILLIAMS to the Board of Pharmacy, term to expire June 30, 2008, seconded by Senator Baker.

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. 1331 (Gov. Msg. No. 239):

Senator Menor moved that Stand. Com. Rep. No. 1331 be received and placed on file, seconded by Senator Baker and carried.

Senator Menor then moved that the Senate advise and consent to the nomination of CHRISTINA BAXENDALE to the Board of Physical Therapy, term to expire June 30, 2008, seconded by Senator Baker.

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

Ayes, 25. Noes, none.

THIRD READING

H.B. No. 624, S.D. 1:

On motion by Senator Taniguchi, seconded by Senator Tsutsui and carried, H.B. No. 624, S.D. 1, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION FOR COLLECTIVE BARGAINING COST ITEMS FOR PUBLIC EMPLOYEES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

H.B. No. 119, H.D. 1:

On motion by Senator Hanabusa, seconded by Senator Hee and carried, H.B. No. 119, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

H.B. No. 313:

On motion by Senator Hanabusa, seconded by Senator Hee and carried, H.B. No. 313, entitled: "A BILL FOR AN ACT RELATING TO 911 EMERGENCY SERVICE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

H.B. No. 320, H.D. 1, S.D. 1:

Senator Hanabusa moved that H.B. No. 320, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Hee.

Senator Slom rose in opposition to the measure and said:

"Mr. President, I rise in opposition to this bill.

"The bill, I believe, is overly broad and it has several problems with it, some of which I'd like to discuss at the moment. I don't have any problem with expanding the disclosure requirements for elected officials or for those agencies where salaries are earned and so forth. The problem I have with this bill is that it goes into boards and commissions to people that are not paid, also to their families' – to spouse's and to children's – financial statements. There were comments by the ethics commission that in fact they did not seek this and that this in fact may be a problem on many other areas and not the least of which may be privacy and other constitutional issues.

"When we pass or expand legislation like this, normally we do so because there is a compelling public interest. There was nothing mentioned in the bill or in the committee report that would indicate in fact that there is a compelling public interest or in fact that there's any public interest whatsoever to have this additional information.

"So again, my concern is with those people that are appointed to boards and commissions that are not paid and that it requires information about their spouses and about their children. I think, Mr. President, we have seen that it's difficult enough to get people to volunteer to be on boards or commissions. I think that this in fact would be further evidence that it would be very hard and discourage those people to do community service.

"So, for these reasons, I'm going to vote 'no' on the bill. Thank you."

Senator Hanabusa rose to speak in favor of the measure as follows:

“Mr. President, I rise to speak in favor of this measure.

“Mr. President, the boards and commission provision of this bill that requires the disclosure, and it’s a public disclosure, are for those state board and commission members who have the authority to render declaratory rulings or hold contested case hearings in accordance with Chapter 91. Mr. President, I believe that the public does want to know and should know about any types of financial interest that these board members may have because they are in fact acting in a quasi-judicial manner.

“Thank you, Mr. President.”

The motion was put by the Chair and carried, H.B. No. 320, H.D. 1, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO FINANCIAL DISCLOSURE STATEMENTS,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 3 (Hemmings, Hogue, Slom).

H.B. No. 494:

On motion by Senator Hanabusa, seconded by Senator Hee and carried, H.B. No. 494, entitled: “A BILL FOR AN ACT RELATING TO TRAFFIC INFRACTIONS,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

At 12:10 o’clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:14 o’clock p.m.

RECONSIDERATION OF ACTION TAKEN EARLIER ON THE CALENDAR

H.B. No. 494:

Senator Hanabusa moved that the Senate reconsider its action taken earlier on the calendar in passing H.B. No. 494 on Third Reading, seconded by Senator Hee.

At 12:14 o’clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:14 o’clock p.m.

Senator Hanabusa noted:

“Mr. President, H.B. No. 494 moved out of the Judiciary Committee unamended and we received notice that the judiciary has requested some changes to the measure. There is a Senate version that’s making its way through the House, so we would like to move to reconsider the vote so that we can then move to recommit this measure and work on the Senate version that’s moving through the House at this time.

“Thank you, Mr. President.”

The motion was put by the Chair and carried.

On motion by Senator Hanabusa, seconded by Senator Hee and carried, H.B. No. 494, entitled: “A BILL FOR AN ACT

RELATING TO TRAFFIC INFRACTIONS,” was recommitted to the Committee on Judiciary and Hawaiian Affairs.

THIRD READING

H.B. No. 806, H.D. 1, S.D. 1:

On motion by Senator Hanabusa, seconded by Senator Hee and carried, H.B. No. 806, H.D. 1, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO CRIMINAL TRESPASS,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

H.B. No. 894:

On motion by Senator Hanabusa, seconded by Senator Hee and carried, H.B. No. 894, entitled: “A BILL FOR AN ACT RELATING TO ELECTIONS,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

H.B. No. 1221:

On motion by Senator Hanabusa, seconded by Senator Hee and carried, H.B. No. 1221, entitled: “A BILL FOR AN ACT RELATING TO STATUTORY REVISION: AMENDING, REENACTING, OR REPEALING VARIOUS PROVISIONS OF THE HAWAII REVISED STATUTES AND THE SESSION LAWS OF HAWAII FOR THE PURPOSE OF CORRECTING ERRORS AND REFERENCES, CLARIFYING LANGUAGE, AND DELETING OBSOLETE OR UNNECESSARY PROVISIONS,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

H.B. No. 496:

On motion by Senator Hanabusa, seconded by Senator Hee and carried, H.B. No. 496, entitled: “A BILL FOR AN ACT RELATING TO PETTY MISDEMEANORS,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

H.B. No. 8, H.D. 1:

On motion by Senator Sakamoto, seconded by Senator Hooser and carried, H.B. No. 8, H.D. 1, entitled: “A BILL FOR AN ACT RELATING TO MILITARY SERVICE,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

H.B. No. 644, H.D. 1, S.D. 1:

On motion by Senator Menor, seconded by Senator Baker and carried, H.B. No. 644, H.D. 1, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO POOLED INSURANCE,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

H.B. No. 785, H.D. 1, S.D. 1:

On motion by Senator Menor, seconded by Senator Baker and carried, H.B. No. 785, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MORTGAGE FORECLOSURES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

HOUSE COMMUNICATIONS

MATTERS DEFERRED FROM THURSDAY, MARCH 31, 2005

H.C.R. No. 86, H.D. 1 (Hse. Com. No. 362):

By unanimous consent, action on H.C.R. No. 86, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE DEPARTMENT OF TRANSPORTATION TO EXPEDITIOUSLY CONCLUDE ITS NEGOTIATIONS WITH HAWAII SUPERFERRY, INC.," was deferred until Monday, April 4, 2005.

H.C.R. No. 127 (Hse. Com. No. 363):

By unanimous consent, action on H.C.R. No. 127, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE COUNTIES TO DETERMINE THE FEASIBILITY OF REGULATING AND LICENSING BED AND BREAKFAST HOMES AND TRANSIENT VACATION UNITS," was deferred until Monday, April 4, 2005.

H.C.R. No. 214 (Hse. Com. No. 364):

By unanimous consent, action on H.C.R. No. 214, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE STATE AND COUNTIES TO RECOGNIZE WALKING AND BICYCLING AS FUNDAMENTAL MEANS OF RECREATION AND TRANSPORTATION IN HAWAII," was deferred until Monday, April 4, 2005.

H.C.R. No. 245, H.D. 1 (Hse. Com. No. 365):

By unanimous consent, action on H.C.R. No. 245, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE UNITED STATES CONGRESS TO AMEND THE NO CHILD LEFT BEHIND ACT OF 2001 ACCORDING TO THE RECOMMENDATIONS OF THE FINAL REPORT OF THE NATIONAL CONFERENCE OF STATE LEGISLATURES' TASK FORCE ON NO CHILD LEFT BEHIND," was deferred until Monday, April 4, 2005.

H.C.R. No. 246 (Hse. Com. No. 366):

By unanimous consent, action on H.C.R. No. 246, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE PRESIDENT AND THE CONGRESS OF THE UNITED STATES TO MAKE CERTAIN MODIFICATIONS AND ACKNOWLEDGMENTS WITH RESPECT TO THE NO CHILD LEFT BEHIND ACT OF 2001," was deferred until Monday, April 4, 2005.

H.C.R. No. 247 (Hse. Com. No. 367):

By unanimous consent, action on H.C.R. No. 247, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF EDUCATION TO INCLUDE PERFORMANCE BASED INCENTIVES WHEN CONTRACTING WITH EDUCATION SERVICE PROVIDERS FOR SCHOOL RESTRUCTURING UNDER

THE NO CHILD LEFT BEHIND ACT," was deferred until Monday, April 4, 2005.

RE-REFERRAL OF SENATE CONCURRENT RESOLUTIONS

The Chair re-referred the following Senate concurrent resolutions that were offered:

Senate
Concurrent
Resolution

Referred to:

No. 53 Committee on Education and Military
Affairs, then to the Committee on Ways and Means

No. 54 Committee on Health

No. 98 Committee on Health

No. 128 Committee on Human Services

No. 178 Jointly to the Committee on Water, Land,
and Agriculture and the Committee on Commerce, Consumer
Protection and Housing, then to the Committee on Judiciary and
Hawaiian Affairs

No. 222 Committee on Education and Military
Affairs

ADJOURNMENT

At 12:17 o'clock p.m., on motion by Senator Hee, seconded by Senator Hogue and carried, the Senate adjourned until 11:30 o'clock a.m., Monday, April 4, 2005.

Respectfully submitted,

Clerk of the Senate

Approved:

President of the Senate