

FIFTY-THIRD DAY

Wednesday, April 21, 1999

The Senate of the Twentieth Legislature of the State of Hawaii, Regular Session of 1999, convened at 11:42 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by Mr. Edward Young, Chairman of the National Spiritual Assembly of the Baha'i of the Hawaiian Islands, after which the Roll was called showing all Senators present with the exception of Senator Ihara who was excused.

The President announced that he had read and approved the Journal of the Fifty-Second Day.

Senator Chun Oakland introduced the following recipients of the 1998 Niu Volunteer Awards sponsored by Hawaii Lawyers Care and recognized them for their outstanding volunteer legal assistance: Eric Elkind, Matthew Kohm, Robert Sadaoka, Richard Philpott (representing the law firm of Goodsill Anderson Quinn and Stifel), T. Lynne Wasson, and Owen Iida.

At 11:57 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

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

STANDING COMMITTEE REPORTS

Senator Inouye, for the Committee on Economic Development, presented a report (Stand. Com. Rep. No. 1734) recommending that the Senate advise and consent to the nominations of KATSUMI TANAKA, GLENN K. MURANAKA and JEFF J. COELHO to the Convention Center Authority, in accordance with Gov. Msg. No. 257.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 1734 and Gov. Msg. No. 257 was deferred until Thursday, April 22, 1999.

Senator Inouye, for the Committee on Economic Development, presented a report (Stand. Com. Rep. No. 1735) recommending that the Senate advise and consent to the nominations of JACQUELINE A. PARNELL, MAURICE TAMURA, JOHN JOSEPH MCHUGH, JR., Ph.D., SUSAN MILLER and BARRY MICHAEL BRENNAN, Ph.D., to the Advisory Committee on Pesticides, in accordance with Gov. Msg. No. 260.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 1735 and Gov. Msg. No. 260 was deferred until Thursday, April 22, 1999.

Senator Inouye, for the Committee on Economic Development, presented a report (Stand. Com. Rep. No. 1736) recommending that the Senate advise and consent to the nomination of PETER B.H. KIM to the Board of Directors, Aloha Tower Development Corporation, in accordance with Gov. Msg. No. 270.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 1736 and Gov. Msg. No. 270 was deferred until Thursday, April 22, 1999.

Senator Inouye, for the Committee on Economic Development, presented a report (Stand. Com. Rep. No. 1737) recommending that the Senate advise and consent to the nomination of STEVEN J. ARAUJO to the Aquatic Life and Wildlife Advisory Committee, County of Hawai'i, in accordance with Gov. Msg. No. 271.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 1737 and Gov. Msg. No. 271 was deferred until Thursday, April 22, 1999.

Senator Inouye, for the Committee on Economic Development, presented a report (Stand. Com. Rep. No. 1738) recommending that the Senate advise and consent to the nominations of DERYCK ISHIMOTO, JACK N. GUSHIKEN and ANTHONY KAUAHI to the Aquatic Life and Wildlife Advisory Committee, County of Kauai, in accordance with Gov. Msg. No. 272.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 1738 and Gov. Msg. No. 272 was deferred until Thursday, April 22, 1999.

Senator Inouye, for the Committee on Economic Development, presented a report (Stand. Com. Rep. No. 1739) recommending that the Senate advise and consent to the nominations of THOMAS I. FUJIKAWA, KEN KOIKE and CREIGHTON D. ARITA to the Board of Directors, High Technology Development Corporation, in accordance with Gov. Msg. No. 278.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 1739 and Gov. Msg. No. 278 was deferred until Thursday, April 22, 1999.

Senator Hanabusa, for the Committee on Water, Land, and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 1740) recommending that the Senate advise and consent to the nomination of KATHLEEN K.S.L. THURSTON to the Hawaiian Homes Commission, in accordance with Gov. Msg. No. 238.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 1740 and Gov. Msg. No. 238 was deferred until Thursday, April 22, 1999.

Senator Hanabusa, for the Committee on Water, Land, and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 1741) recommending that the Senate advise and consent to the nomination of PATRICK T. KUBOTA to the Hawai'i Community Development Authority, in accordance with Gov. Msg. No. 258.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 1741 and Gov. Msg. No. 258 was deferred until Thursday, April 22, 1999.

Senator Nakata, for the Committee on Labor and Environment, presented a report (Stand. Com. Rep. No. 1742) recommending that the Senate advise and consent to the nomination of MICHAEL MCCARTNEY as Director of Human Resources Development, in accordance with Gov. Msg. No. 152.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 1742 and Gov. Msg. No. 152 was deferred until Thursday, April 22, 1999.

Senator Nakata, for the majority of the Committee on Labor and Environment, presented a report (Stand. Com. Rep. No. 1743) recommending that the Senate advise and consent to the nomination of LORRAINE H. AKIBA as Director of Labor and Industrial Relations, in accordance with Gov. Msg. No. 154.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 1743 and Gov. Msg. No. 154 was deferred until Thursday, April 22, 1999.

ORDER OF THE DAY**ADVISE AND CONSENT**

Stand. Com. Rep. No. 1725 (Gov. Msg. No. 179):

Senator Kanno moved that Stand. Com. Rep. No. 1725 be received and placed on file, seconded by Senator Taniguchi and carried.

Senator Kanno then moved that the Senate advise and consent to the nomination of EIICHI JUMAWAN to the State Boxing Commission of Hawai'i, term to expire June 30, 2003, seconded by Senator Taniguchi.

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

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

Stand. Com. Rep. No. 1726 (Gov. Msg. No. 219):

Senator Kanno moved that Stand. Com. Rep. No. 1726 be received and placed on file, seconded by Senator Taniguchi and carried.

Senator Kanno then moved that the Senate advise and consent to the nominations of RANDALL M. HASHIMOTO, JAY I. ISHIBASHI and CAROL S. SAKATA to the Board of Professional Engineers, Architects, Surveyors, and Landscape Architects, terms to expire June 30, 2003, seconded by Senator Taniguchi.

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

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

Stand. Com. Rep. No. 1727 (Gov. Msg. No. 222):

Senator Kanno moved that Stand. Com. Rep. No. 1727 be received and placed on file, seconded by Senator Taniguchi and carried.

Senator Kanno then moved that the Senate advise and consent to the nominations to the Board of Massage Therapy of the following:

MICHELLE NAKATA and EMY M. YAMAUCHI, terms to expire June 30, 2002; and

LEE YETTA STEIN, term to expire June 30, 2003,

seconded by Senator Taniguchi.

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

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

Stand. Com. Rep. No. 1728 (Gov. Msg. No. 240):

Senator Kanno moved that Stand. Com. Rep. No. 1728 be received and placed on file, seconded by Senator Taniguchi and carried.

Senator Kanno then moved that the Senate advise and consent to the nominations to the Radiologic Technology Board of the following:

W. PHILIP KAU, D.V.M., term to expire June 30, 2001; and

PATRICK MCGUIGAN and ANN A. OHATA, M.D., terms to expire June 30, 2003,

seconded by Senator Taniguchi.

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

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

Stand. Com. Rep. No. 1729 (Gov. Msg. No. 255):

Senator Kanno moved that Stand. Com. Rep. No. 1729 be received and placed on file, seconded by Senator Taniguchi and carried.

Senator Kanno then moved that the Senate advise and consent to the nominations of LOWELL T. NAGAUE and LYNN S.H. HIROMOTO to the Board of Public Accountancy, terms to expire June 30, 2003, seconded by Senator Taniguchi.

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

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

Stand. Com. Rep. No. 1730 (Gov. Msg. No. 256):

Senator Kanno moved that Stand. Com. Rep. No. 1730 be received and placed on file, seconded by Senator Taniguchi and carried.

Senator Kanno then moved that the Senate advise and consent to the nominations of BARBARA M. KOKUBUN and MILTON Y. MIGITA to the State Board of Barbering and Cosmetology, terms to expire June 30, 2003, seconded by Senator Taniguchi.

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

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

Stand. Com. Rep. No. 1731 (Gov. Msg. No. 261):

Senator Kanno moved that Stand. Com. Rep. No. 1731 be received and placed on file, seconded by Senator Taniguchi and carried.

Senator Kanno then moved that the Senate advise and consent to the nominations of JASON MOON and KENT KOIKE to the Board of Pharmacy, terms to expire June 30, 2003, seconded by Senator Taniguchi.

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

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

Stand. Com. Rep. No. 1732 (Gov. Msg. No. 262):

Senator Kanno moved that Stand. Com. Rep. No. 1732 be received and placed on file, seconded by Senator Taniguchi and carried.

Senator Kanno then moved that the Senate advise and consent to the nominations of JIM BECKER, STEVE HIRANO, RICKY C. MANAYAN and SCOTT SHIRAI to the Board of Public Broadcasting, terms to expire June 30, 2003, seconded by Senator Taniguchi.

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

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

Stand. Com. Rep. No. 1733 (Gov. Msg. No. 148):

Senator Kanno moved that Stand. Com. Rep. No. 1733 be received and placed on file, seconded by Senator Taniguchi and carried.

Senator Kanno then moved that the Senate advise and consent to the nomination of KATHRYN S. MATAYOSHI as Director of Commerce and Consumer Affairs, term to expire December 2, 2002, seconded by Senator Taniguchi.

Senator Kanno rose in support of the nominee and said:

"Mr. President, I rise to speak in support of the nominee.

"Mr. President, your Committee on Commerce and Consumer Protection received strong and unanimous support for Ms. Kathy Matayoshi's nomination as Director of DCCA, both from within and outside of the department. Administrators and employees of DCCA testified that Ms. Matayoshi is an open, responsive, intelligent, and hard working leader who, in difficult fiscal times, has balanced the competing interests of the 14 divisions and offices under her management in a fair and even-handed manner. Professional organizations whose members are regulated by the department and members of the business community attested to Ms. Matayoshi's accessibility and professionalism, and fairness in balancing the interests of consumers and business.

"Mr. President, I urge my colleagues to vote 'aye' in support of the nominee."

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

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

At this time, Senator Kanno introduced Ms. Matayoshi who was seated in the gallery.

RE-REFERRAL OF HOUSE CONCURRENT RESOLUTIONS

The Chair re-referred the following House concurrent resolutions that were received:

House
Concurrent
Resolution

Referred to:

No. 66, H.D. 1 Jointly to the Committee on Commerce and Consumer Protection and the Committee on Ways and Means

No. 73 Jointly to the Committee on Government Operations and Housing and the Committee on Ways and Means

Senator M. Ige rose on a point of personal privilege and said:

"Mr. President, I rise on a point of personal privilege.

"Mr. President, I, like Senator Anderson, this morning got up -- I don't know how early; I know it wasn't 5:30 -- and got to the newspaper and read that, or basically found out that the Governor, who we know is campaigning for the Attorney General's reappointment, is saying that those Senators who are opposed to her reappointment are doing so because of special interests. He identifies the Bishop Estate, tobacco and gasoline companies as special interests.

"Mr. President, I find these allegations so very unfortunate. I believe that all of us here -- all of us here -- vote based on what we believe is right for Hawaii and not based on special interests. But speaking about special interest, I did find to be of interest, maybe even of special interest to me, the fact that two of the litigations -- tobacco and gasoline -- have been given by the Attorney General to one law firm. Let me tell you who the

law firm is: Galiher DeRobertis Nakamura Ono Takitani. Mr. President, I hope -- I sincerely hope -- there is no personal interest in this selection because if there is, if there is, it will be of interest to all of us.

"Thank you."

Senator D. Ige, for the Committee on Education and Technology, requested a waiver pursuant to Senate Rule 20 for Gov. Msg. Nos. 182, 241 and 245, and the Chair granted the waiver.

Senator Chumbley, for the Committee on Judiciary, requested a waiver pursuant to Senate Rule 20 for Gov. Msg. Nos. 289 and 295, and the Chair granted the waiver.

At 12:11 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

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

Senator Anderson rose on a point of personal privilege as follows:

"Mr. President, I rise on a point of personal privilege.

"Mr. President, the other day I said it was too bad that the Governor hasn't made a decision on where the prison should be constructed. He picked several different areas on the Big Island, but not wanting to get in the way of any of our three Senators from the Big Island, it was up in the air. I did say it was also our fault because the prison financing is not in the budget. But to find out we're now going to have a new location in Vegas, really got me a little upset. As I said the other day, the Governor with his staff, or at least the majority party with their staff, could certainly get information as to what happens if you privatize a prison.

"Well, I asked our staff if they would do some research. And it seems that the growth in the U.S. incarceration population results in an increase in the cost of incarceration. We make laws that mandate jail or mandate prison, and then we turn around and we don't ensure there are proper facilities to incarcerate offenders!

"In 1995, there was 1,365 state correctional facilities -- 289 of those were maximum security; 438 medium security; and 648 minimum security. In 1995, the census reported that there were 98 private correctional facilities under contracts to state authorities. By 1999, a study showed that there were 119 private correctional facilities in the United States. Now we have where these facts came from. It was the United States Department Bureau of Justice. There's all kinds of documentation on the growing need for prison construction.

"One of the other things that we found out is a private prison can be built in Hawaii. We've been saying that it could help if we were to build it at home here and have the private sector take over, rather than the state borrowing money. And last night I understood (when we were in Finance and I went through some of the provisos) that to pay for our GO bonds interest and principal will cost the state some \$400 million. So there's nothing wrong with looking at private enterprise. For example, Texas has 43 private prisons within the state, and the State of Texas found that the private prisons have positive economic impacts, i.e., they hire local employees, purchase local goods and they contribute to the tax base. And I would think that would make my colleague here from God's country very happy because we're helping our local industry.

"I also know we can draft anything in the appropriate legislation we want so that we have some kind of impact on what happens if we want private enterprise to build that prison. The legislation can approve a low, medium, or maximum security facility, what type of construction, etc. Legislators can choose the Department of Public Safety to oversee the bid to

ensure that they hire enough guards or administrators and that the facility down to the food will be adequate.

"There's all kinds of ideas and data available. And for us to sit back and allow a prison to be built in Vegas is a shame. I'm not sure if that means that every cell will have a one-arm bandit or that we're going to have the recreational facility into a casino.

"You know, we have to make some decisions that are tough, ladies and gentlemen, and we're not doing it. Neither is the Governor and he's the highest elected official in this State to make decisions. And he should not say, well, I don't want to hurt this Senator or that House member or this person, so I'll keep changing that facility location. That's not being a leader.

"So there's all kinds of data out there, there's information. The majority party can get it; the Governor can get it. And I would hope that once he makes the decision, then we will go ahead and fund this much needed facility like we're supposed to.

"Thank you very much, Mr. President."

APPOINTMENT AND DISCHARGE OF CONFEREES

S.B. No. 1518 (H.D. 1):

The President appointed Senator Chun as an additional manager on the part of the Senate at the conference to be held for the consideration of amendments proposed by the House to S.B. No. 1518.

H.B. No. 139, H.D. 1 (S.D. 2):

The President appointed Senator Tam as an additional 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. 139, H.D. 1.

H.B. No. 140 (S.D. 2):

The President appointed Senator Tam as an additional 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. 140.

H.B. No. 150, H.D. 2 (S.D. 1):

The President appointed Senator Chun as an additional 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. 150, H.D. 2.

H.B. No. 985, H.D. 1 (S.D. 2):

The President appointed Senator Chun as a manager and discharged Senator Matsuura as a 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. 985, H.D. 1.

ADJOURNMENT

At 12:19 o'clock p.m., on motion by Senator Chun, seconded by Senator Slom and carried, the Senate adjourned until 11:30 o'clock a.m., Thursday, April 22, 1999.