

FIFTY-FOURTH DAY

Monday, April 21, 2014

The Senate of the Twenty-Seventh Legislature of the State of Hawai'i, Regular Session of 2014, convened at 11:34 a.m. with the President in the Chair.

The Roll was called showing all Senators present.

The President announced that she had read and approved the Journal of the Fifty-Third Day.

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 250 to 252) were read by the Clerk and were placed on file:

Gov. Msg. No. 250, dated March 31, 2014, transmitting the Department of Agriculture's Annual Report pursuant to Act 100, SLH 1999.

Gov. Msg. No. 251, dated April 4, 2014, transmitting the Assessment of Repair and Maintenance Needs of the State's War Memorials and Veterans' Cemeteries Report, prepared by the Department of Defense, Office of Veterans Services, pursuant to Act 100, SLH 1999.

Gov. Msg. No. 252, dated April 7, 2014, transmitting the Lead By Example State of Hawai'i Agencies' Energy Initiatives FY 2012-2013 Report, prepared by the Department of Business, Economic Development and Tourism pursuant to Act 96, SLH 2006.

HOUSE COMMUNICATION

The following communication from the House (Hse. Com. No. 696) was read by the Clerk and was placed on file:

Hse. Com. No. 696, informing the Senate that on April 17, 2014, the House made the following change to the conferees on the following measure:

S.B. No. 2478 (H.D. 2):

Representative Morikawa added as co-chair.

STANDING COMMITTEE REPORTS

Senator Shimabukuro, for the Committee on Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 3478) recommending that the Senate advise and consent to the nomination of KAHELEONALANI DUKELOW to the Island Burial Council, Islands of Maui and Lanai, in accordance with Gov. Msg. No. 646.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 3478 and Gov. Msg. No. 646 was deferred until Tuesday, April 22, 2014.

Senator Shimabukuro, for the Committee on Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 3479) recommending that the Senate advise and consent to the nomination of DAVID KAAPU to the Hawaiian Homes Commission, in accordance with Gov. Msg. No. 700.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 3479 and Gov. Msg. No. 700 was deferred until Tuesday, April 22, 2014.

Senator Taniguchi, for the Committee on Higher Education, presented a report (Stand. Com. Rep. No. 3480) recommending that the Senate advise and consent to the nominations to the Hawaii Commission for National and Community Service of the following:

JOHN ANDERSON, in accordance with Gov. Msg. No. 676;

JANICE BOND, in accordance with Gov. Msg. No. 677;

DENNIS DUNN, in accordance with Gov. Msg. No. 678;

LISA DUNN, in accordance with Gov. Msg. No. 679;

PATRICIA MASTERS, in accordance with Gov. Msg. No. 680;

DARIN SHIGETA, in accordance with Gov. Msg. No. 681; and

CHARLOTTE TOWNSEND, in accordance with Gov. Msg. No. 682.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 3480 and Gov. Msg. Nos. 676, 677, 678, 679, 680, 681, and 682 was deferred until Tuesday, April 22, 2014.

Senator Taniguchi, for the Committee on Higher Education, presented a report (Stand. Com. Rep. No. 3481) recommending that the Senate advise and consent to the nominations to the Hawaii Medical Education Council of the following:

VICKI MCMANUS, in accordance with Gov. Msg. No. 683;

KENNETH ROBBINS, in accordance with Gov. Msg. No. 684;

SHARON VITOUSEK, in accordance with Gov. Msg. No. 685;

ALLEN HIXON, in accordance with Gov. Msg. No. 686; and

WILLIAM DUBBS, in accordance with Gov. Msg. No. 687.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 3481 and Gov. Msg. Nos. 683, 684, 685, 686, and 687 was deferred until Tuesday, April 22, 2014.

STANDING COMMITTEE REPORTS

AND

ADOPTION OF RESOLUTIONS

Senator Ige, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 3482) recommending that H.C.R. No. 48, H.D. 2, as amended in S.D. 1, be adopted.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 48, H.D. 2, S.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE CONVENING OF A TASK FORCE TO DEVELOP RECOMMENDATIONS FOR THE ESTABLISHMENT OF A REGULATED STATEWIDE DISPENSARY SYSTEM FOR MEDICAL MARIJUANA," was adopted.

Senator Ige, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 3483) recommending that H.C.R. No. 136, S.D. 1 be adopted.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 136, S.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION AUTHORIZING THE ISSUANCE OF A TERM, NON-EXCLUSIVE EASEMENT, COVERING A PORTION OF STATE SUBMERGED LANDS AT WAIHOLI-KEOKEA HOMESTEADS, KIHAI, MAUI, FOR SEAWALL AND ROCK REVETMENT PURPOSES," was adopted.

Senator Ige, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 3484) recommending that H.C.R. No. 238, S.D. 1 be adopted.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 238, S.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE SUPERINTENDENT OF EDUCATION AND THE DIRECTOR OF HEALTH TO FORM A WORKING GROUP TO ASSESS WHETHER CHILDREN IN HAWAII WHO ARE DEAF OR SEVERELY HARD OF HEARING AND WHO CHOOSE THE AURAL/ORAL ROUTE OF COMMUNICATION RECEIVE PROPER TRAINING AND SUPPORT TO LEARN SPOKEN LANGUAGE SKILLS," was adopted.

Senator Ige, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 3485) recommending that H.C.R. No. 14, S.D. 1 be adopted.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 14, S.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION AUTHORIZING THE ISSUANCE OF A LEASE AND EASEMENT OF CERTAIN SUBMERGED LANDS AT MANELE BAY, LANA'I, TO LANA'I RESORTS, LLC," was adopted.

Senator Ige, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 3486) recommending that H.C.R. No. 40, S.D. 1 be adopted.

Senator Espero moved that Stand. Com. Rep. No. 3486 and H.C.R. No. 40, 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, the report of the Committee was adopted and H.C.R. No. 40, S.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION RECOGNIZING AND DESIGNATING THE HAWAII HEALTH INFORMATION EXCHANGE AS THE ONLY FULLY OPERATIONAL, STATEWIDE HEALTH INFORMATION EXCHANGE OPERATING IN HAWAII," was adopted, with Senator Slom voting "No."

Senator Ige, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 3487) recommending that H.C.R. No. 202, H.D. 1, S.D. 1 be adopted.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 202, H.D. 1, S.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE CONVENING OF A WORKING GROUP TO RECOMMEND WAYS TO REDUCE INCIDENTS OF SEPSIS AND SEPSIS DEATHS IN THE STATE," was adopted.

Senator Ige, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 3488) recommending that H.C.R. No. 110, H.D. 2, S.D. 1 be adopted.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 110, H.D. 2, S.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DIRECTOR OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM TO ESTABLISH A WORKING GROUP TO RECOMMEND LEGISLATION OR CHANGES TO ADMINISTRATIVE RULES TO DEVELOP CONTRACTUAL OBLIGATIONS BETWEEN THE STATE AND WIRELESS TELECOMMUNICATION SERVICE PROVIDERS AS TO THE USE OF PUBLIC

LANDS FOR WIRELESS TELECOMMUNICATION INFRASTRUCTURE," was adopted.

Senator Ige, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 3489) recommending that H.C.R. No. 78, H.D. 1, S.D. 1 be adopted.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 78, H.D. 1, S.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF HEALTH TO CONVENE A FAMILY CAREGIVERS WORKING GROUP TO EXAMINE AND ASSESS THE ROLE OF CAREGIVING FOR PATIENTS RELEASED FROM HOSPITALS, THE STATE OF THEIR OVERALL CIRCUMSTANCES, AND THE RESOURCES IN THE COMMUNITY NEEDED AND AVAILABLE TO ASSIST THEM," was adopted.

Senator Ige, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 3490) recommending that H.C.R. No. 122, H.D. 1, S.D. 1 be adopted.

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 122, H.D. 1, S.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE DIRECTOR OF HEALTH TO CONVENE A TASK FORCE TO ASSESS THE SCOPE AND FEASIBILITY OF ESTABLISHING AN EMERGENCY SERVICES PATIENT ADVOCATE PROGRAM," was adopted.

ORDER OF THE DAY

THIRD READING

MATTER DEFERRED FROM THURSDAY, APRIL 10, 2014

Stand. Com. Rep. No. 3393 (H.B. No. 1716):

By unanimous consent, action on Stand. Com. Rep. No. 3393 and H.B. No. 1716, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR INVASIVE SPECIES PREVENTION, CONTROL, OUTREACH, RESEARCH, AND PLANNING," was deferred until Tuesday, April 29, 2014.

AGREE/DISAGREE

MATTER DEFERRED FROM THURSDAY, APRIL 17, 2014

S.C.R. No. 83 (H.D. 1):

On motion by Senator Espero, seconded by Senator Dela Cruz and carried, the Senate agreed to the amendments proposed by the House to S.C.R. No. 83, and S.C.R. No. 83, H.D. 1, entitled: "SENATE CONCURRENT RESOLUTION COMMENDING AND SUPPORTING THE PACIFIC INTERNATIONAL SPACE CENTER FOR EXPLORATION SYSTEMS' COLLABORATIVE WORK WITH THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AND PRIVATE INDUSTRIES IN THE AREAS OF BASALTIC CONCRETE AND ADDITIVE MANUFACTURING AND REQUESTING COLLABORATION TO EXPLORE OPPORTUNITIES FOR APPLICATIONS OF BASALTIC CONCRETE AND ADDITIVE MANUFACTURING," was placed on the calendar for Final Adoption on Tuesday, April 22, 2014.

ADVISE AND CONSENT

Stand. Com. Rep. No. 3473 (Gov. Msg. No. 643):

Senator Hee moved that Stand. Com. Rep. No. 3473 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 ELIZABETH KENT to the Commission to Promote Uniform Legislation, term to expire June 30, 2018, 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. 3474 (Gov. Msg. No. 644):

Senator Hee moved that Stand. Com. Rep. No. 3474 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 AMY MONK to the Commission on the Status of Women, term to expire June 30, 2018, 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. 3475 (Gov. Msg. No. 645):

Senator Hee moved that Stand. Com. Rep. No. 3475 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 DANNY VASCONCELLOS to the Labor and Industrial Relations Appeals Board, term to expire June 30, 2020, seconded by Senator Shimabukuro.

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

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

Stand. Com. Rep. No. 3476 (Gov. Msg. No. 675):

Senator Taniguchi moved that Stand. Com. Rep. No. 3476 be received and placed on file, seconded by Senator Kahele and carried.

Senator Taniguchi then moved that the Senate advise and consent to the nomination of DAVID DUFFY to the Board of Directors of the Research Corporation of the University of Hawaii, term to expire June 30, 2017, seconded by Senator Kahele.

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

Ayes, 25. Noes, none.

At this time, Senator Hee introduced Danny Vasconcellos, who was accompanied in the gallery by his wife, Miki; his mother, Nancy; and his daughter, Brandi Merriman, and her son, Kale.

ADOPTION OF RESOLUTIONS

MATTERS DEFERRED FROM THURSDAY, APRIL 17, 2014

Stand. Com. Rep. No. 3470 (H.C.R. No. 77, H.D. 1, S.D. 1):

On motion by Senator Espero, seconded by Senator Slom and carried, the joint report of the Committees was adopted and H.C.R. No. 77, H.D. 1, S.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION EXPRESSING

LEGISLATIVE SUPPORT FOR THE HAWAII FOOD AND WINE FESTIVAL AND DECLARING THE FESTIVAL TO BE THE NEXT AGRICULTURAL AND CULINARY MOVEMENT IN THE STATE OF HAWAII," was adopted.

Stand. Com. Rep. No. 3471 (H.C.R. No. 170, H.D. 1):

On motion by Senator Espero, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 170, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO ADOPT RULES TO MANAGE MANTA RAY DIVE SITES," was adopted.

Stand. Com. Rep. No. 3472 (H.C.R. No. 47):

On motion by Senator Espero, seconded by Senator Slom and carried, the joint report of the Committees was adopted and H.C.R. No. 47, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE HAWAII DEPARTMENT OF AGRICULTURE AND UNITED STATES DEPARTMENT OF AGRICULTURE TO TAKE ADMINISTRATIVE ACTIONS TO PROTECT OHIA AND OTHER MYRTACEAE FAMILY PLANTS FROM THE DESTRUCTIVE RUST FUNGUS, *Puccinia psidii*," was adopted.

FINAL READING

S.B. No. 2321, S.D. 1, H.D. 1:

Senator Ige moved that S.B. No. 2321, S.D. 1, H.D. 1, having been read throughout, pass Final Reading, seconded by Senator Kidani.

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

"Thank you. I agree with the state budget director that the bill should not have a statute of limitations. Any money that is owed due to taxpayers should be paid by the state. 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. 2321, S.D. 1, and S.B. No. 2321, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO UNCLAIMED PROPERTY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Slom).

S.B. No. 2874, H.D. 1:

On motion by Senator Solomon, seconded by Senator Galuteria and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2874, and S.B. No. 2874, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE BOARD OF LAND AND NATURAL RESOURCES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

S.B. No. 2876, S.D. 2, H.D. 2:

On motion by Senator Solomon, seconded by Senator Galuteria and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2876, S.D. 2, and S.B. No. 2876, S.D. 2, H.D. 2, entitled: "A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE VII, SECTION 12, OF THE HAWAII STATE CONSTITUTION TO ASSIST DAM AND RESERVOIR OWNERS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

S.B. No. 2886, S.D. 1, H.D. 1:

Senator Ige moved that S.B. No. 2886, S.D. 1, H.D. 1, having been read throughout, pass Final Reading, seconded by Senator Kidani.

Senator Slom rose to speak in support of the measure with reservations as follows:

"I'm getting tired, Madam President; every year, I rise with the same speech, the same bill. The bill is mistitled; it says 'conformity with the Internal Revenue Code.' It is not conformity; it is selective conformity. There are certain parts that are always left out every year and those are the parts that benefit the taxpayers of Hawai'i; notably, the fact that on the federal return, the amount for personal exemption is three times what it is for Hawai'i. So, by this selective conformity, again, we maintain that a person in Hawai'i is worth one-third of that of the rest of the nation. 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. 2886, S.D. 1, and S.B. No. 2886, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONFORMITY OF THE HAWAII INCOME TAX LAW TO THE INTERNAL REVENUE CODE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

At 11:42 a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:46 a.m.

WAIVER OF REFERRAL

Senator Hee, Chair of the Committee on Judiciary and Labor, requested that the waiver of H.C.R. No. 12, H.D. 1, S.D. 1 to the Committee on Judiciary and Labor be waived.

Senator Hee noted:

"The reason for this is, evidently, this is an issue that, I guess, caught the attention of some people who feel very moved by this HCR to the degree that the hearing was held on this thing without giving JDL the opportunity to consider this measure. So, under the circumstances and under the title of the HCR, it's probably in the interest of all of us to consider a waiver to allow this to move forward. That's the best I can do, Madam President."

The Chair granted the waiver.

ADOPTION OF A RESOLUTION

Senator Hee moved that H.C.R. No. 12, H.D. 1, S.D. 1 be adopted, seconded by Senator Espero.

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

"Thank you, Madam President. Speaking in very strong support, Madam President, just to remind this body that it was many years ago when we had President Simone, who was then head of the University of Hawai'i, and this was one of the reasons why he was fired. We had problems then; and here we are, and this is 2014, and we still have these same problems. So, Madam President, I'm hoping that with the adoption of this resolution, that the University of Hawai'i staff, or whomever's in charge, or the president, to really get on it and solve it. You know, I think it's almost every so many months – because, as you know, my daughter is in attendance at the University of Hawai'i at Mānoa – they do get these emails: someone was assaulted here, someone was assaulted there. You know, and I've asked my daughter, 'Is there any follow-up after you're notified?' And she said, no, there's no follow-up. So, I think

this is very serious, and as well you know, most of those that are assaulted are females, but I'm sure maybe males are being assaulted also; it's just that it's not being reported properly. So, I urge all my colleagues to strongly support this resolution. Thank you."

The motion was put by the Chair and carried, H.C.R. No. 12, H.D. 1, S.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE UNIVERSITY OF HAWAII TO AFFIRM ITS COMMITMENT TO UPHOLDING THE TENETS OF TITLE IX OF THE EDUCATION AMENDMENT ACT OF 1972 AND THE VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT 2013 AND THE UNIVERSITY OF HAWAII'S DEDICATION TO ENDING ALL FORMS OF SEXUAL VIOLENCE ON HAWAII CAMPUSES THROUGH A REPORT ON THE STATUS OF TITLE IX OF THE EDUCATION AMENDMENT ACT OF 1972 AND VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT 2013 POLICIES, PROCEDURES, STAFFING, AND STATISTICS," was adopted.

JUDICIARY COMMUNICATION

The following communication from the Judiciary (Jud. Com. No. 3) was read by the Clerk and was disposed of as follows:

Jud. Com. No. 3, submitting for consideration and confirmation to the District Family Court of the Third Circuit, State of Hawaii, Judicial Nominee HENRY T. NAKAMOTO, for a term of six years, was referred to the Committee on Judiciary and Labor.

At this time, Senator Hee rose to inform the members that the Committee on Judiciary and Labor would do its best to hold a hearing to consider the confirmation of Henry Nakamoto before the end of the Regular Session of 2014 to spare the taxpayers the expenses for a special session, and urged the members to contact the nominee as soon as possible.

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., Tuesday, April 22, 2014.