

## THIRTY-EIGHTH DAY

**Tuesday, March 27, 2018**

The House of Representatives of the Twenty-Ninth Legislature of the State of Hawaii, Regular Session of 2018, convened at 12:03 o'clock p.m., with Speaker Saiki presiding.

The invocation was delivered by Mr. Aukai Walk of the Office of Representative Sean Quinlan, after which the Roll was called showing all Members present with the exception of Representatives Choy, Matsumoto, Nakashima, Souki and Tokioka, who were excused.

By unanimous consent, reading and approval of the Journal of the House of Representatives of the Thirty-Seventh Day was deferred.

## SENATE COMMUNICATIONS

The following communications from the Senate (Sen. Com. Nos. 436 through 446) were received and announced by the Clerk:

Sen. Com. No. 436, transmitting H.B. No. 1172, HD 2, SD 2, entitled: "A BILL FOR AN ACT RELATING TO FIREWORKS," which passed Third Reading in the Senate on March 23, 2018.

Sen. Com. No. 437, transmitting H.B. No. 1604, SD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE BONDS," which passed Third Reading in the Senate on March 23, 2018.

Sen. Com. No. 438, transmitting H.B. No. 1667, HD 1, SD 1, entitled: "A BILL FOR AN ACT RELATING TO PROBATION," which passed Third Reading in the Senate on March 23, 2018.

Sen. Com. No. 439, transmitting H.B. No. 1773, HD 1, SD 1, entitled: "A BILL FOR AN ACT RELATING TO SEARCH WARRANTS," which passed Third Reading in the Senate on March 23, 2018.

Sen. Com. No. 440, transmitting H.B. No. 1850, HD 1, SD 1, entitled: "A BILL FOR AN ACT RELATING TO PORNOGRAPHY," which passed Third Reading in the Senate on March 23, 2018.

Sen. Com. No. 441, transmitting H.B. No. 1852, HD 1, SD 1, entitled: "A BILL FOR AN ACT RELATING TO PORNOGRAPHY," which passed Third Reading in the Senate on March 23, 2018.

Sen. Com. No. 442, transmitting H.B. No. 2033, HD 1, SD 1, entitled: "A BILL FOR AN ACT RELATING TO MANNER OF SERVICE," which passed Third Reading in the Senate on March 23, 2018.

Sen. Com. No. 443, transmitting H.B. No. 2219, HD 1, SD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ENVIRONMENT," which passed Third Reading in the Senate on March 23, 2018.

Sen. Com. No. 444, transmitting H.B. No. 2395, SD 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTRONIC FILING," which passed Third Reading in the Senate on March 23, 2018.

Sen. Com. No. 445, transmitting H.B. No. 2396, HD 1, SD 1, entitled: "A BILL FOR AN ACT RELATING TO TAX ADMINISTRATION," which passed Third Reading in the Senate on March 23, 2018.

Sen. Com. No. 446, transmitting H.B. No. 2416, HD 1, SD 1, entitled: "A BILL FOR AN ACT RELATING TO TAX ON INTANGIBLE PROPERTY," which passed Third Reading in the Senate on March 23, 2018.

Representative Belatti moved to disagree to the amendments made by the Senate to the following House Bills, seconded by Representative Morikawa and carried: (Representatives Choy, Matsumoto, Nakashima, Souki and Tokioka were excused.)

H.B. No. 1172, HD 2, (SD 2)

H.B. No. 1604, (SD 1)  
H.B. No. 1667, HD 1, (SD 1)  
H.B. No. 1773, HD 1, (SD 1)  
H.B. No. 1850, HD 1, (SD 1)  
H.B. No. 1852, HD 1, (SD 1)  
H.B. No. 2033, HD 1, (SD 1)  
H.B. No. 2219, HD 1, (SD 1)  
H.B. No. 2395, (SD 1)  
H.B. No. 2396, HD 1, (SD 1)  
H.B. No. 2416, HD 1, (SD 1)

## ORDER OF THE DAY

INTRODUCTION OF RESOLUTIONS  
(FLOOR PRESENTATIONS)

The following resolution (H.R. No. 220) was announced by the Clerk and the following action taken:

H.R. No. 220, entitled: "HOUSE RESOLUTION HONORING THE HAWAII VENTURE CAPITAL ASSOCIATION ON ITS 30TH ANNIVERSARY AND RECOGNIZING HAWAII'S MOST INNOVATIVE ENTREPRENEURS AT THE 18TH ANNUAL ENTREPRENEUR AND DEAL OF THE YEAR AWARDS GALA," was offered by Representative Ohno.

Representative Ohno moved that H.R. No. 220 be adopted, seconded by Representative Keohokalole.

Representative Ohno honored the Hawaii Venture Capital Association on its 30th anniversary, and recognized Hawaii's most innovative entrepreneurs.

Representative Ichiyama recognized Mr. Komeiji and Hawaiian Telcom for encouraging employees to seize opportunities by solving problems and taking the required actions, utilizing resources to make innovation happen, and introduced honoree who was seated on the Floor of the House:

Mr. John Komeiji, Chief Administrative Officer and General Counsel, Hawaiian Telcom, Corporate Intrapreneur of the Year.

Representative Matsumoto recognized Altino as a multi-organizational effort to bring computer programming to every student in Hawaii by training their teachers, honored them for making a substantial contribution to Hawaii, celebrated their leadership, innovation and commitment to solve our state's toughest problems, and introduced honorees who were seated on the Floor of the House:

Mr. Sumil Thapa, Chemical Engineer, Oceanit, Team Altino, Social Impact Entrepreneur of the Year; and

Ms. Stacy Clayton, Executive Strategy Consultant, Kamehameha Schools, Team Altino, Social Impact Entrepreneur of the Year.

Representative Johanson recognized Noa Botanicals as the Startup Paradise company that received the largest financial deal, and introduced honoree who was seated on the Floor of the House:

Mr. Brian Goldstein, Founder and CEO, Noa Botanicals, Deal of the Year.

Representative Ohno recognized Mr. Wetzel for contributing significantly to investing in the Hawaii startup ecosystem, and introduced honoree who was seated on the Floor of the House:

Mr. Ian Wetzel, Investment Specialist, Employees' Retirement System of the State of Hawaii, Investor of the Year.

Representative Holt recognized Mr. Lagon and Mr. Frizzel of Shifted Energy for developing clean technology that helps move society to a cleaner, greener future, Mr. Reddekopp of Hawaiian Vanilla Company for

consistently seeing month over month increases in revenue and customers with a consumer brand based out of Hawaii, and introduced honoree who was seated on the Floor of the House:

Ms. Meli James, President, Hawaii Venture Capital Association, representing Mr. Olin Lagon, CTO, and Mr. Forest Frizzel, CEO, Shifted Energy, Agriculture and Clean Tech Entrepreneur of the Year; and Mr. Jim Reddekopp, Owner, Hawaiian Vanilla Company, Consumer Packaged Goods Entrepreneur of the Year.

Representative Evans recognized Representative Keohokalole for his steadfast commitment to providing an environment for ingenuity, innovation, vision and entrepreneurship for our next generation of business leaders and consistently contributing to the startup community, and introduced honoree who was seated on the Floor of the House:

Representative Jarrett Keohokalole, Startup Paradise Champion.

Representative Ward, as a founding member of the Hawaii Venture Capital Association, congratulated the awardees and recognized them as the hope and the future for Hawaii's economy.

Representative Tupola congratulated Ms. Meli James on the success of Mana Up, and thanked her for all she has done for entrepreneurs and businesses in the State of Hawaii.

The motion was put to vote by the Chair and carried, and H.R. No. 220 was adopted, with Representatives Choy, Souki and Tokioka being excused.

At 12:17 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 12:38 o'clock p.m.

### SUSPENSION OF RULES

On motion by Representative Morikawa, seconded by Representative Ward and carried, the rules were suspended for the purpose of considering certain Senate Bills for Third Reading by consent calendar. (Representatives Choy, Ichiyama, Souki and Tokioka were excused.)

### THIRD READING

#### S.B. No. 648, SD 1, HD 1:

Representative Belatti moved that S.B. No. 648, SD 1, HD 1 pass Third Reading, seconded by Representative Morikawa.

Representative Say rose to speak in opposition to the measure, stating:

"Mr. Speaker, I will be very brief, but let me start off by saying that I am in opposition to this House Draft 1. I would have liked to have had this House consider the Senate Draft 1 that dealt with the earned income tax credit, it dealt with the restore the income tax rates for our high income residents, and removed the sunset date for the refundable food excise tax credit, which is all part of our democratic position of the Democratic Party, the progressives and the liberals. So that is one of the reasons why I'm in opposition to this measure. And secondly, on Friday, which I stated for the record, I hope there was some equality in reference to Oahu getting a fair share of the general fund. Thank you very much."

Representative Belatti rose to speak in support of the measure, stating:

"Mr. Speaker, in strong support. This measure has had due consideration by members of the Finance Committee. We have other measures taking into account the other provisions, and as we continue with this session we hope that all of these measures get considered by both the Senate and the House. Thank you, Mr. Speaker."

Representative Luke rose to speak in support of the measure, stating:

"Thank you. In support of Senate Bill 648, Senate Draft 1, House Draft 1. This is a continuous discussion from the special session. During special session, we wanted to thank all the members for your patience and working through the tough issue of additional funding for rail, and I know that in itself took a lot of energy and debate out of both houses, both the House and the Senate. And we especially wanted to thank the neighbor island members, whether you voted in support of rail or in opposition of that special session vote. It was a tough thing that we as Oahu legislators asked of the neighbor island Representatives in that because of difficulty in trying to figure out the TAT distribution, we asked this House to support funding the rail project through a statewide TAT. And whether you agree or disagree with that approach, at that point in time, including the Star-Advertiser editorial board, believed that that was the best approach that the Legislature has taken.

"At the end of the special session, this House, especially you, Speaker, has made a commitment to work with the neighbor islands, especially with the neighbor island colleagues, to work on providing equity for the neighbor islands, and we heard that throughout either special session and coming into this session. This is the result of that effort and working with the neighbor island Representatives and some of the leadership members and some of the councilmembers. This now provides equity to the neighbor islands, and again, we wanted to thank the neighbor island Representatives for taking a hard stand during special session and providing support for Oahu's rail project.

"Just to clarify for the record, the underlying bill, Senate Bill 648, deals with EITC, we did that last year, and that's why we used this vehicle. Funding, taxing at the high-rate, we did that last year, and that's why we used this vehicle. And then the third section, the credit, we did that last year, and that's why this was a bill that was lying in conference, where we addressed all the aspects in the underlying bill, and that's why we felt it was perfect to use this vehicle, because there was no other additional things that are left in the substantive portion of that vehicle that needed to be addressed this year. Thank you."

Representative Morikawa rose to speak in support of the measure, stating:

"Thank you, Mr. Speaker. Strong support. Mr. Speaker, I've always been concerned about how the counties spend the money that they do get from TAT, and I think this measure does hook the spending to a general plan, a tourism strategic plan, or a development plan, and for that I am more assured that this will be used to impact each islands' tourism. Thank you."

Representative Har rose in support of the measure with reservations and asked that the remarks of Representative Say be entered into the Journal as her own, and the Chair "so ordered." (By reference only.)

Representative Woodson rose to speak in support of the measure, stating:

"Mr. Speaker, strong support, written comments, please. Thank you."

Representative Woodson's written remarks are as follows:

"We should resist the us versus them mentality. The Legislature should debate policy based on the needs of particular communities. I urge my colleagues to support this measure."

Representative Creagan rose to speak in support of the measure, stating:

"Thank you, Mr. Speaker. I rise in strong support. I think the county councils probably going to be considering a rise in the GET tax for the neighbor islands, and I'm hopeful that this bill will stave off that increase, and I thank you for this bill."

Representative Nakashima rose to speak in support of the measure, stating:

"Thank you, Mr. Speaker. In strong support. Mr. Speaker, I would like to acknowledge the work of the Finance Committee and the Finance Chair and the leadership of the House for bringing this measure forward. I would like to also request additional comments in the record. Thank you."

Representative Nakashima's written remarks are as follows:

"Mr. Speaker, I stand in strong support of SB 648, and thank the Finance Committee and Chair for bringing this measure forward to the floor of the House for consideration. This bill will increase transient accommodations tax money provided to all of the neighbor island counties totaling more than \$36 million.

"This is very much a bill that recognizes the large investment that the Legislature committed to the City and County of Honolulu during the interim when the TAT was increased statewide to provide additional funding for the Honolulu Rail project. This bill will limit the expenditure of these funds to county plans and programs that have already been adopted by the county for county services such as park maintenance, police and fire protection, and infrastructure repairs—public services and recreational areas that are used extensively by both residents and tourists alike.

"The TAT is paid by visitor accommodations to the State and allocated to several groups, including the counties, to pay for visitor released expenses. Remember, these taxes are almost entirely paid for by tourists staying in our hotels. Not by residents.

"As amended, SB 648, SD 1, HD 1 will increase the amount of the TAT revenues for the neighbor islands:

- Increasing Hawaii Island's TAT revenues from \$19,158,000 to \$31,248,000.
- Increasing Kauai's TAT revenues from \$14,935,000 to \$24,360,000.
- Increasing Maui's TAT revenues from \$23,484,000 to \$38,304,000.

"The TAT amount for the City & County of Honolulu is unchanged for a total of \$45.4 million per year.

"I believe that this strikes a fair balance recognizing the growing needs in the counties and will serve as a stopgap measure while we more closely examine the current need for re-balancing and re-directing the general excise tax, income tax and TAT to better serve the need of our citizens and provide a healthier economy for all of Hawaii."

Representative San Buenaventura rose to speak in support of the measure, stating:

"Thank you, in strong support. I also thank leadership, Finance Chair for introducing this measure and in taking into account the concerns we have on the neighbor islands. I'd also like to submit further written comments to the Journal. Thanks."

Representative San Buenaventura's written remarks are as follows:

"This bill would allocate additional transient accommodations tax revenues to the counties of Kauai, Hawaii and Maui. Many legislators, including myself, have fought for years to increase the neighbor islands' share of the TAT and believe that this measure is long overdue. This bill will provide the means for the counties to address their infrastructure needs which will help them accommodate the growing number of visitors to the outer islands and, among other things, help pave the way for economic self-sufficiency.

"I would also like to note my disappointment in those who are opposing this bill based on the opinion that Oahu legislators must, above all costs, fend for their own interest. It is this kind of divisive attitude that has caused unnecessary conflict amongst the public and unnecessarily prohibits our ability to work together toward our long-term goals.

"I would like to reiterate my strong support for this bill and express my gratitude to the Finance Committee and House leadership for working with me and my fellow outer-island legislators in crafting this bill and moving it forward."

Representative Say rose to respond, stating:

"Mr. Speaker, my second time, please. I'll be very brief at this point in time, but let me say this all the Members of the House. What we pass today

may have some unintended consequences, and I hope, I truly hope, that when the counties do receive these particular general funds, they will do it for primarily capital improvement projects. The reason why is very simple. Once you depend on that allotment of the TAT for the next 12 years, you'll be providing more jobs, more opportunities, but also the fact that you'll be relying on it.

"Yes, one of our colleagues stated for the record this afternoon that this may alleviate some of our problems, Mr. Speaker, in regards to not raising property taxes for some of our three counties that are going to be receiving it. I don't believe that should be the approach to look at, as far as government financing. Why? It's all a stopgap measure.

"This is a 12-year appropriation that the State of Hawaii, the State Legislature of the House and, I don't know what the Senate's going to do, but it's something that is going to cost all of us, during that 12-year cycle, over close to a half a billion dollars. And it is for this reason that I stated earlier that I wish Oahu had some small share of the general fund of the transient accommodations tax that goes into the state general fund. And for these reasons why I share this, because once you open up the can of worms of depending on this, some of you who are here 12 years from now are going to be stuck in regards to determining, are you going to extend the TAT. It may be the next six years, no one knows what is the forecast, the future of our great country that we love, and this great state that we love. But be cautious, be aware of the unintended consequences that may occur. Thank you."

Representative McKelvey rose to speak in support of the measure, stating:

"Thank you, Mr. Speaker. In support. I wasn't planning to speak today, but the comments of the previous speaker, I guess, I wanted to rise because there is actually already an allocation from the TAT for the City and County of Honolulu. Special session, the 1%. Rail is a municipal, federal project, period. It's going to fall on the municipality to fund rail. This 1% gave them funding that they would otherwise have to take from other services. What is happening today is basically an acknowledgement and restoration of what we've been trying, since I've been a freshman, is to get our allocation of the TAT for our services. The 1% coming in is going to be generated by Maui tourists, that's why neighbor islanders were so upset about it, and this restores what many saw as neighbor island TAT coming in to subsidize a City and County of Honolulu-only project.

"So thank you for this bill, and I know the people of Maui will put it to good use to make sure, and I really like the master plan idea, because we don't want to use this to offset things in the past that were rightfully so not related to infrastructure or the impact of quality of life from our visitor industry. Thank you."

Representative DeCoite rose to speak in support of the measure, stating:

"Mr. Speaker, just for clarification with our last speaker from Lahaina. I'm rising in support, but a clarification. Maui County, which includes Molokai and Lanai. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, S.B. No. 648, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 44 ayes to 3 noes, with Representative Har voting aye with reservations, with Representatives Ito, McDermott and Say voting no, and with Representatives Choy, Ichiyama, Souki and Tokioka being excused.

**S.B. No. 2146, HD 1:**

On motion by Representative Belatti, seconded by Representative Morikawa and carried, S.B. No. 2146, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLICATION OF ELECTION NOTICES," passed Third Reading by a vote of 47 ayes, with Representatives Choy, Ichiyama, Souki and Tokioka being excused.

**S.B. No. 2992, SD 1, HD 1:**

On motion by Representative Belatti, seconded by Representative Morikawa and carried, S.B. No. 2992, SD 1, HD 1, entitled: "A BILL FOR

AN ACT RELATING TO CAMPAIGN FINANCE," passed Third Reading by a vote of 47 ayes, with Representatives Choy, Ichiyama, Souki and Tokioka being excused.

**S.B. No. 2174, SD 1, HD 1:**

On motion by Representative Belatti, seconded by Representative Morikawa and carried, S.B. No. 2174, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MATERIAL WITNESS ORDERS," passed Third Reading by a vote of 47 ayes, with Representatives Choy, Ichiyama, Souki and Tokioka being excused.

**S.B. No. 2180, SD 1, HD 1:**

On motion by Representative Belatti, seconded by Representative Morikawa and carried, S.B. No. 2180, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LESSER INCLUDED OFFENSES," passed Third Reading by a vote of 47 ayes, with Representatives Choy, Ichiyama, Souki and Tokioka being excused.

At 12:50 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 648, SD 1, HD 1  
 S.B. No. 2146, HD 1  
 S.B. No. 2992, SD 1, HD 1  
 S.B. No. 2174, SD 1, HD 1  
 S.B. No. 2180, SD 1, HD 1

H.B. No. 1667, HD 1, SD 1  
 H.B. No. 1773, HD 1, SD 1  
 H.B. No. 1850, HD 1, SD 1  
 H.B. No. 1852, HD 1, SD 1  
 H.B. No. 2033, HD 1, SD 1  
 H.B. No. 2219, HD 1, SD 1  
 H.B. No. 2395, SD 1  
 H.B. No. 2396, HD 1, SD 1  
 H.B. No. 2416, HD 1, SD 1

### ANNOUNCEMENTS

Representative Ward: "Mr. Speaker, immediately after session, that is in the next few minutes, the fellowship luncheon will be held in Room 423. The speaker will be the gentleman in the balcony, Kahu Curt Kekuna. Would you please rise, with my assistant? Let's give them a round of applause. Thank you, Denzel, thank you, Kahu."

Representative Morikawa: "Thank you, Mr. Speaker. On behalf of all of us, I would like to wish a very happy birthday to our Vice Speaker, who decided to have an eye exam, so may not be seeing too clearly this afternoon. Happy Birthday."

Representative Belatti: "Thank you, Mr. Speaker. Last call for Easter baskets. Most recent count puts us at 64 baskets. We only have another 160 to go. Be sure to come down to the Chamber level at 1:45 p.m. on Thursday to discover who our Easter Bunny is, and a secret surprise. Thank you."

At this time, the Chair stated:

"The Chair has one announcement. Just a reminder to all committee chairs that today is the lateral filing deadline for House concurrent resolutions that need to move to their final committees. Please file your committee reports and drafts with the Chief Clerk's Office by 6 p.m. this evening."

### ADJOURNMENT

At 12:52 o'clock p.m., on motion by Representative Morikawa, seconded by Representative Ward and carried, the House of Representatives adjourned until 12:00 o'clock noon tomorrow, Wednesday, March 28, 2018. (Representatives Choy, Ichiyama, Souki and Tokioka were excused.)

### HOUSE COMMUNICATIONS

House Communication dated March 27, 2018, from Brian L. Takeshita, Chief Clerk of the House of Representatives, to the Honorable President and Members of the Senate, informing the Senate that the House has disagreed to the amendments made by the Senate to the following measures:

H.B. No. 1172, HD 2, SD 2  
 H.B. No. 1604, SD 1