

TWENTY-SECOND DAY

Wednesday, February 20, 2019

The House of Representatives of the Thirtieth Legislature of the State of Hawaii, Regular Session of 2019, convened at 12:01 o'clock p.m., with Vice Speaker Nakashima presiding.

The invocation was delivered by Ms. Megan Kira, after which the Roll was called showing all members present with the exception of Representatives Nakamura and Onishi, who were excused.

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

GOVERNOR'S MESSAGES

The following messages from the Governor (Gov. Msg. Nos. 3 through 5) were received and announced by the Clerk and were placed on file:

Gov. Msg. No. 3, dated January 7, 2019, transmitting the Hawaii Employer-Union Health Benefits Trust Fund Annual Report for FYE June 30, 2018, pursuant to Section 87A-25, HRS.

Gov. Msg. No. 4, dated January 7, 2019, transmitting the Report Relating to Staff of the Hawaii Employer-Union Health Benefits Trust Fund, pursuant to Act 145, SLH 2017.

Gov. Msg. No. 5, dated January 11, 2019, transmitting the Relating to the Variance Report, pursuant to Act 169, SLH 2017.

DEPARTMENTAL COMMUNICATIONS

The following departmental communications (Dept. Com. Nos. 363 through 374) were received by the Clerk and were placed on file:

Dept. Com. No. 363, from the University of Hawaii System, dated January 15, 2019, transmitting a Position Report, pursuant to Act 49, Section 96, SLH 2017.

Dept. Com. No. 364, from the Office of Enterprise Technology Services, dated January 15, 2019, transmitting the Department of Human Services Systems Modernization Project, Final IV&V Monthly Status Report for Reporting Period: December 1-31, 2018, pursuant to Section 27-43.6, HRS.

Dept. Com. No. 365, from the Office of the Auditor, dated January 16, 2019, transmitting the Financial Audit of the Comprehensive Annual Financial Report of the State of Hawaii (CAFR), pursuant to Chapter 23, HRS.

Dept. Com. No. 366, from the Department of Business, Economic Development & Tourism, dated January 15, 2019, transmitting the Hawaii Community Development Authority 2018 Annual Report, pursuant to Section 206E-19, HRS.

Dept. Com. No. 367, from the Department of Health, dated January 16, 2019, transmitting the Annual Report on the Implementation of the State Plan by the Hawaii State Council on Developmental Disabilities, pursuant to Section 333E-3(5), HRS.

Dept. Com. No. 368, from the State Public Charter School Commission, dated January 15, 2019, transmitting the Report on University Laboratory School Admissions for 2018-2019, pursuant to Section 302D-34(d), HRS.

Dept. Com. No. 369, from the Department of Health, dated January 16, 2019, transmitting the Annual Report that Outlines the Status of the Office of Health Care Assurance's Aggregate Number of Announced and Unannounced Visits and Inspections Conducted by the Department of Health on the State-Licensed or State-Certified Care Facilities and the General Outcomes and Corrective Actions Taken by the Department, pursuant to Act 184, SLH 2016.

Dept. Com. No. 370, from the Department of Health, dated January 16, 2019, transmitting the Sanitation Branch Annual Audit, Sanitation and Environmental Health Special Fund, Fiscal Year 2018, and the Report on the Status of the Sanitation and Environmental Health Education Fund, pursuant to Sections 321-24.5, 321-21, 321-27.5 and 321-27, HRS.

Dept. Com. No. 371, from the University of Hawaii System, dated January 22, 2019, transmitting a Position Report, pursuant to Act 49, Section 96, SLH 2017.

Dept. Com. No. 372, from the Department of Labor and Industrial Relations, dated January 23, 2019, transmitting the Workforce Development Council Annual Report, pursuant to Section 202-2(14), HRS.

Dept. Com. No. 373, from the Office of the Auditor, dated January 23, 2019, transmitting the Financial Audit of the Hawaii Employer-Union Health Benefits Trust Fund, pursuant to Chapter 23, HRS.

Dept. Com. No. 374, from the Office of the Auditor, dated January 24, 2019, transmitting Report No. 19-05, Review of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts of the Department of Transportation, pursuant to Section 23-12, HRS.

ORDER OF THE DAY

**INTRODUCTION OF RESOLUTIONS
(FLOOR PRESENTATIONS)**

The following resolution (H.R. No. 26) was announced by the Clerk and the following action taken:

H.R. No. 26, entitled: "HOUSE RESOLUTION RECOGNIZING AND CONGRATULATING THE KO'OLAUPOKO HAWAIIAN CIVIC CLUB FOR WINNING THE PRINCE JONAH KUHIŌ KALANIANA'OLE OUTSTANDING CIVIC CLUB OF THE YEAR AWARD AND PUALEILANI OUTSTANDING HAWAIIAN CIVIC CLUB OHANA AWARD," was jointly offered by Representatives Kitagawa and Matayoshi.

Representative Kitagawa moved that H.R. No. 26 be adopted, seconded by Representative Matayoshi.

Representative Kitagawa recognized and congratulated the Ko'olaupoko Hawaiian Civic Club for winning the Prince Jonah Kūhiō Kalaniana'ole Outstanding Civic Club of the Year Award and the Pualeilani Outstanding Hawaiian Civic Club 'Ohana Award, thanked them for their continuing effort to support the culture and heritage of Native Hawaiians through educational and service programs and community outreach, and introduced honorees who were seated on the Floor of the House:

Alice Hewett, President;
Frances Leialoha "Rocky" Kaluhiwa, 1st Vice President;
Nancy Davlantes, Treasurer;
Teri Loo, Corresponding Secretary;
Clifford Loo, Member; and
Mahealani Cypher, Past President.

Representative Matayoshi recognized the Loo 'Ohana for their special volunteer efforts, dedication, commitment and service, and thanked them for their service to the club and community.

Representative Har recognized the passion of the Ko'olaupoko Hawaiian Civic Club and their commitment to He'eia, thanked Aunty Rocky and Aunty Mahealani for their part in creating the He'eia Community Development District, and thanked the club for all the work they have been doing.

The motion was put to vote by the Chair and carried, and H.R. No. 26 was adopted, with Representatives Nakamura and Onishi being excused.

At 12:14 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 12:21 o'clock p.m.

REPORTS OF STANDING COMMITTEES

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 796) recommending that H.B. No. 114 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Belatti, seconded by Representative Morikawa and carried, the report of the Committee was adopted and H.B. No. 114, entitled: "A BILL FOR AN ACT RELATING TO AMENDING OR REPEALING HAWAII INCOME TAX LAWS FOR THE PURPOSE OF DELETING OBSOLETE OR UNNECESSARY PROVISIONS," passed Second Reading and was placed on the calendar for Third Reading, with Representatives Mizuno, Nakamura and Onishi being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 797) recommending that H.B. No. 120 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Belatti, seconded by Representative Morikawa and carried, the report of the Committee was adopted and H.B. No. 120, entitled: "A BILL FOR AN ACT RELATING TO STATE BONDS," passed Second Reading and was placed on the calendar for Third Reading, with Representatives Mizuno, Nakamura and Onishi being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 798) recommending that H.B. No. 121 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Belatti, seconded by Representative Morikawa and carried, the report of the Committee was adopted and H.B. No. 121, entitled: "A BILL FOR AN ACT RELATED TO NON-GENERAL FUNDS," passed Second Reading and was placed on the calendar for Third Reading, with Representatives Mizuno, Nakamura and Onishi being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 799) recommending that H.B. No. 299 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Belatti, seconded by Representative Morikawa and carried, the report of the Committee was adopted and H.B. No. 299, entitled: "A BILL FOR AN ACT RELATING TO GRANTS," passed Second Reading and was placed on the calendar for Third Reading, with Representatives Mizuno, Nakamura and Onishi being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 800) recommending that H.B. No. 348 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Belatti, seconded by Representative Morikawa and carried, the report of the Committee was adopted and H.B. No. 348, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR PUBLIC EMPLOYMENT COST ITEMS," passed Second Reading and was placed on the calendar for Third Reading, with Representatives Mizuno, Nakamura and Onishi being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 801) recommending that H.B. No. 351 pass Second Reading and be placed on the calendar for Third Reading.

Representative Belatti moved that the report of the Committee be adopted, and that H.B. No. 351 pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Morikawa.

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

"Mr. Speaker, strong support, brief comment. Mr. Speaker, given the incident on Monday night at the Capitol, the importance of the Capitol Management Committee is brought front and center to be all more important. And particularly, as it takes now the chief of staff to the administrative, aka Ford Fuchigami, as a member of that, I just wanted to commend that change because of the quality of that person and what he brings to the table. He is probably one of the best civil servants that I've ever run into. And just as a kind of an inside baseball, he gets to the office at 4:30 a.m., his assistant gets to the office upstairs at 3:30 a.m. in the morning. So, because of that, I expect good things will come out of this capitol committee, particularly a comprehensive security plan. I repeat, a comprehensive security plan for the State Capitol. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 351, entitled: "A BILL FOR AN ACT RELATING TO EXECUTIVE BRANCH POSITIONS," passed Second Reading and was placed on the calendar for Third Reading, with Representatives Mizuno, Nakamura and Onishi being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 802) recommending that H.B. No. 618 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Belatti, seconded by Representative Morikawa and carried, the report of the Committee was adopted and H.B. No. 618, entitled: "A BILL FOR AN ACT RELATING TO STATE FUNDS," passed Second Reading and was placed on the calendar for Third Reading, with Representatives Mizuno, Nakamura and Onishi being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 803) recommending that H.B. No. 809 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Belatti, seconded by Representative Morikawa and carried, the report of the Committee was adopted and H.B. No. 809, entitled: "A BILL FOR AN ACT RELATING TO THE FUNDING OF GRANTS PURSUANT TO CHAPTER 42F, HAWAII REVISED STATUTES," passed Second Reading and was placed on the calendar for Third Reading, with Representatives Mizuno, Nakamura and Onishi being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 804) recommending that H.B. No. 1007 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Belatti, seconded by Representative Morikawa and carried, the report of the Committee was adopted and H.B. No. 1007, entitled: "A BILL FOR AN ACT RELATING TO ADDING THE ROTH OPTION FOR THE DEFERRED COMPENSATION PLAN," passed Second Reading and was placed on the calendar for Third Reading, with Representatives Mizuno, Nakamura and Onishi being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 805) recommending that H.B. No. 1042 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Belatti, seconded by Representative Morikawa and carried, the report of the Committee was adopted and H.B. No. 1042, entitled: "A BILL FOR AN ACT RELATING TO TAX REPORTING," passed Second Reading and was placed on the calendar for Third Reading, with Representatives Mizuno, Nakamura and Onishi being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 806) recommending that H.B. No. 1044 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Belatti, seconded by Representative Morikawa and carried, the report of the Committee was adopted and

H.B. No. 1044, entitled: "A BILL FOR AN ACT RELATING TO MARKET-BASED SOURCING," passed Second Reading and was placed on the calendar for Third Reading, with Representatives Mizuno, Nakamura and Onishi being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 807) recommending that H.B. No. 1045 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Belatti, seconded by Representative Morikawa and carried, the report of the Committee was adopted and H.B. No. 1045, entitled: "A BILL FOR AN ACT RELATING TO TAX REFUND OFFSETS," passed Second Reading and was placed on the calendar for Third Reading, with Representatives Mizuno, Nakamura and Onishi being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 808) recommending that H.B. No. 1046 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Belatti, seconded by Representative Morikawa and carried, the report of the Committee was adopted and H.B. No. 1046, entitled: "A BILL FOR AN ACT RELATING TO TAX RETURN PREPARERS," passed Second Reading and was placed on the calendar for Third Reading, with Representatives Mizuno, Nakamura and Onishi being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 809) recommending that H.B. No. 1259 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Belatti, seconded by Representative Morikawa and carried, the report of the Committee was adopted and H.B. No. 1259, entitled: "A BILL FOR AN ACT RELATING TO CAPITAL IMPROVEMENT PROJECTS," passed Second Reading and was placed on the calendar for Third Reading, with Representatives Mizuno, Nakamura and Onishi being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 810) recommending that H.B. No. 1193 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Belatti, seconded by Representative Morikawa and carried, the report of the Committee was adopted and H.B. No. 1193, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Second Reading and was placed on the calendar for Third Reading, with Representatives Mizuno, Nakamura and Onishi being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 811) recommending that H.B. No. 1048 pass Second Reading and be placed on the calendar for Third Reading.

Representative Belatti moved that the report of the Committee be adopted, and that H.B. No. 1048 pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Morikawa.

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

"Mr. Speaker, on 811 I'm going to vote no. Some brief comments, sir. It changes the fees and permits and licenses issued under Hawaii Revised Chapters 243, 244D and 245 HRS from specified amounts to reasonable fees established by rule by the Department of Transportation. And those include fuel tax, liquor tax, cigarette and tobacco tax. I could be wrong, but the way I understand it is that we're kind of waiving our responsibility to set these and allow it to be done by rulemaking. And that could be a backdoor way. Particularly, my concern is the fuel tax, representing people in Ewa Beach who have to drive quite a bit to and fro from work that the fuel tax could go up by rule and not public hearings and statute as the way we do it now. So, for those reasons, I'm going vote no. Thank you, sir."

Representative Matsumoto rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative Okimoto rose in support of the measure with reservations and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Okimoto's written remarks are as follows:

"Thank you, Mr. Speaker. In support with reservations for House Bill 1048. The first section of this bill will allow the Department of Taxation to set a reasonable fee for the liquid fuel retail dealer's permit via rulemaking. I am not opposed to allowing the department to reassess a fee which has remained unchanged since 1959. However, I believe that 'reasonable' should be defined to ensure any reassessed fee is not too excessive."

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

"Mr. Speaker, no vote and request the comments from my colleague from Ewa Beach entered in the Journal as if they were my own, plus a comment that I'd like to make," and the Chair "so ordered." (By reference only.)

Representative Ward continued, stating:

"Thank you. Mr. Speaker, should we trust the civil servants in the departments to tax our constituents? My no vote is based upon, no we shouldn't, because this body is the one that has set it historically and I think we should maintain the amount of fees that we do. Rather than being an end run for cigarette tax, or in this case the gas tax, which the Governor already wants to do with weight and per gallon, giving our authority over to the department is not the best way for governing, if we represent the people and represent their will, because nobody wants any new taxes.

"Particularly regarding, and I get it at home from my wife saying, why did I pay \$420 just to register my car? I said, well, that's because the highway fund was raided and we made some mistakes and now we're trying to compensate for it. And I know we've given the Department of Transportation their own rulemaking to do harbors and airports and their other fees, and I'm not sure that's the best example we want to follow, but this one is after that same bill. And to me it's not a good policy, and for those reasons, I'm voting no. Thank you."

Representative Cabanilla Arakawa rose to speak in support of the measure with reservations, stating:

"Mr. Speaker, I have to vote with strong reservations on behalf of the people on the west side, because until the rail is in place whereby we have other options except to drive our car and spend a lot of money on gasoline, this will not be a very good measure for them. Thank you, Mr. Speaker."

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

Representative Har's written remarks are as follows:

"Mr. Speaker, I rise in support but with some very serious reservations to Stand. Com. Rep. No. 811, HB 1048, Relating to Department of Taxation Fees. While I strongly support the portions of the bill that would allow DOTAX to raise fees for permits and licenses via chapter 91 administrative rulemaking for liquor and tobacco, I am in opposition to the section of the bill that allows for an increase of the fuel tax by administrative rulemaking.

"Mr. Speaker, section 1 of the bill, which covers HRS section 243, the fuel tax, proposes to allow the DOTAX to adopt by rule pursuant to chapter 91 a 'reasonable fee to be charged for each permit or renewal thereof.' Mr. Speaker, the term 'reasonable fee' is a broad one. Moreover, it is completely subjective. While the average resident may consider a 'reasonable fee' to be \$10, DOTAX could define it as \$400 or even \$4,000. This is a serious flaw in the bill for which I am opposed.

"Mr. Speaker, I am also in opposition to section 1 of this bill because of the fact that increasing the fees for permits of retail gas stores could potentially lead to an increase in the fuel tax. The residents of West Oahu are stuck in traffic daily spending hours in their commute. These residents moved out to West Oahu because the cost of owning a home was too expensive in town. So, in order to live the American dream of homeownership, they find themselves dealing with grueling traffic gridlock. Any potential increase in the fuel tax would undoubtedly hurt our residents because of the time and money they spend in their cars and in traffic. As a resident of Kapolei myself, I empathize with the people who need to commute on a regular basis from the west side to town, and who need to travel long distances. Our residents in West Oahu should not be penalized via an increase in the gas tax for living on the west side. This bill has the potential to do just that, which is why I have serious reservations.

"For these reasons, Mr. Speaker, I stand in support but with reservations on HSCR 811, HB 1048."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1048, entitled: "A BILL FOR AN ACT RELATING TO DEPARTMENT OF TAXATION FEES," passed Second Reading and was placed on the calendar for Third Reading, with Representatives Cabanilla Arakawa, Har, Matsumoto and Okimoto voting aye with reservations, with Representatives McDermott and Ward voting no, and with Representatives Mizuno, Nakamura and Onishi being excused.

INTRODUCTION OF RESOLUTIONS

By unanimous consent, the following concurrent resolution (H.C.R. No. 20) was referred to Printing and further action was deferred:

H.C.R. No. 20, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING CONGRESS TO CONVENE A LIMITED NATIONAL CONVENTION UNDER ARTICLE V FOR THE EXCLUSIVE PURPOSE OF PROPOSING AN AMENDMENT TO THE UNITED STATES CONSTITUTION THAT WILL LIMIT THE INFLUENCE OF MONEY IN OUR ELECTORAL PROCESS," was jointly offered by Representatives Perruso, Brower, Kong, Lee, Matayoshi, Mizuno, Saiki, Say, Thielen, Wildberger, Eli, Lowen, McKelvey, Todd and Woodson.

ANNOUNCEMENTS

Representative Ichiyama: "Thank you, Mr. Speaker. Just want to remind Women's Caucus members that we're going to be taking our new group photo immediately following session out on the steps by the Queen Liliuokalani statue. Thank you."

COMMITTEE REASSIGNMENTS

The following measures were re-referred to committee by the Speaker:

<u>H.B.</u> <u>Nos.</u>	<u>Re-referred to:</u>
124	Committee on Finance
1025, HD1	Committee on Water, Land, & Hawaiian Affairs, then to the Committee on Finance
1462, HD1	Committee on Labor & Public Employment, then to the Committee on Finance

ADJOURNMENT

At 12:28 o'clock p.m., on motion by Representative Morikawa, seconded by Representative Matsumoto and carried, the House of Representatives adjourned until 12:00 o'clock noon Thursday, February 28, 2019. (Representatives Mizuno, Nakamura and Onishi were excused.)