

FIFTY-FIRST DAY

Wednesday, April 22, 2009

The Senate of the Twenty-Fifth Legislature of the State of Hawai'i, Regular Session of 2009, convened at 11:40 a.m. with the President in the Chair.

The Divine Blessing was invoked by Dr. David Hockney, Olivet Baptist Church, after which the Roll was called showing all Senators present with the exception of Senator Sakamoto who was excused.

The President announced that she had read and approved the Journal of the Fiftieth Day.

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 621 to 623) were read by the Clerk and were placed on file:

Gov. Msg. No. 621, informing the Senate that on April 21, 2009, the Governor signed into law Senate Bill No. 92 as Act 11, entitled: "RELATING TO STATUTORY REVISION: AMENDING 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."

Gov. Msg. No. 622, informing the Senate that on April 21, 2009, the Governor signed into law Senate Bill No. 1113, S.D. 1 as Act 12, entitled: "RELATING TO GEOGRAPHIC LIMITATIONS ON TIME SHARES."

Gov. Msg. No. 623, letter dated April 17, 2009, as provided in Section 9, Article VII of the Constitution of the State of Hawaii, requesting the immediate consideration and passage of H.B. No. 1364 to amend the Supplemental Appropriations Act of 2008 (Act 158, SLH 2008).

DEPARTMENTAL COMMUNICATION

The following communication (Dept. Com. No. 69) was read by the Clerk and was placed on file:

Dept. Com. No. 69, from the State Auditor, dated April 21, 2009, transmitting a report, "Investigation of the Procurement and Expenditure Practices of the Department of Business, Economic Development and Tourism and Selected Attached Agencies," (Report No. 09-07).

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 663 to 666) were read by the Clerk and were placed on file:

Hse. Com. No. 663, informing the Senate that on April 21, 2009, the Speaker appointed conferees on the part of the House for the consideration of amendments proposed by the House to the following Senate bill:

S.B. No. 1611, S.D. 2 (H.D. 2):

Representatives Souki, M. Oshiro, co-chairs; Awana, Nakashima, Tokioka, Yamashita.

Hse. Com. No. 664, informing the Senate that the House has agreed to the amendments proposed by the Senate to the following House bills and said bills passed Final Reading in the House of Representatives on April 21, 2009:

H.B. No. 267, H.D. 2, S.D. 1;
H.B. No. 319, H.D. 1, S.D. 1;

H.B. No. 1075, S.D. 1;
H.B. No. 1270, H.D. 1, S.D. 2; and
H.B. No. 1436, H.D. 1, S.D. 1.

Hse. Com. No. 665, informing the Senate that the House has agreed to the amendments proposed by the Senate to the following House concurrent resolutions and said resolutions were finally adopted in the House of Representatives on April 21, 2009:

H.C.R. No. 5, S.D. 1;
H.C.R. No. 32, S.D. 1;
H.C.R. No. 38, H.D. 1, S.D. 1;
H.C.R. No. 39, S.D. 1;
H.C.R. No. 44, S.D. 1; and
H.C.R. No. 46, S.D. 1.

Hse. Com. No. 666, informing the Senate that on April 21, 2009, the Speaker made the following changes to the conferees on the following bills:

H.B. No. 31 (S.D. 1):

Representative Wakai replaced Representative Herkes as co-chair;

H.B. No. 271 (S.D. 2):

Representative Wakai replaced Representative Herkes as co-chair;

H.B. No. 814, H.D. 2 (S.D. 2):

Representative Wakai replaced Representative Herkes as co-chair;

H.B. No. 834, H.D. 2 (S.D. 1):

Representative Ward replaced Representative Ching as manager;

H.B. No. 876, H.D. 1 (S.D. 2):

Representative Wakai replaced Representative Herkes as co-chair;

H.B. No. 1362, H.D. 1 (S.D. 2):

Representative Wakai replaced Representative Herkes as co-chair;

H.B. No. 1415, H.D. 1 (S.D. 2):

Representative Wakai replaced Representative Herkes as co-chair;

S.B. No. 113 (H.D. 1):

Representative Wakai replaced Representative Herkes as co-chair;

S.B. No. 415, S.D. 2 (H.D. 1):

Representative Wakai replaced Representative Herkes as co-chair;

S.B. No. 967, S.D. 2 (H.D. 3):

Representative Wakai replaced Representative Herkes as co-chair;

S.B. No. 1107, S.D. 2 (H.D. 2):

Discharged Representative Wakai as manager;
Representative Wakai replaced Representative Herkes as co-chair;

S.B. No. 1263, S.D. 2 (H.D. 3):

Representative Wakai replaced Representative Herkes as co-chair.

STANDING COMMITTEE REPORTS

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 1468) recommending that the Senate advise and consent to the nomination of NIRAJ S. DESAI to the Hawaii Medical Board, in accordance with Gov. Msg. No. 568.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1468 and Gov. Msg. No. 568 was deferred until Thursday, April 23, 2009.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 1469) recommending that the Senate advise and consent to the nominations to the State Board of Public Accountancy of the following:

MICHAEL CHING, in accordance with Gov. Msg. No. 570; and

KENT K. TSUKAMOTO, in accordance with Gov. Msg. No. 571.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1469 and Gov. Msg. Nos. 570 and 571 was deferred until Thursday, April 23, 2009.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 1470) recommending that the Senate advise and consent to the nomination of WENDY L. MAH to the Board of Veterinary Examiners, in accordance with Gov. Msg. No. 572.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1470 and Gov. Msg. No. 572 was deferred until Thursday, April 23, 2009.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 1471) recommending that the Senate advise and consent to the nomination of RAYMOND B. SKELTON to the Board of Professional Engineers, Architects, Surveyors, and Landscape Architects, in accordance with Gov. Msg. No. 566.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1471 and Gov. Msg. No. 566 was deferred until Thursday, April 23, 2009.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 1472) recommending that the Senate advise and consent to the nomination of MICHAEL P. HAMNETT to the Board of Directors of the Hawai'i Hurricane Relief Fund, in accordance with Gov. Msg. No. 550.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1472 and Gov. Msg. No. 550 was deferred until Thursday, April 23, 2009.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 1473) recommending that the Senate advise and consent to the nominations to the Board of Dental Examiners of the following:

WAYNE S. ATEBARA, in accordance with Gov. Msg. No. 548; and

ROBERT G. SHERMAN, in accordance with Gov. Msg. No. 549.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1473 and Gov. Msg. Nos. 548 and 549 was deferred until Thursday, April 23, 2009.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 1474) recommending that the Senate advise and consent to the nominations to the Contractors License Board of the following:

HAROLD MARTIN, in accordance with Gov. Msg. No. 547;

JOHN E.K. DILL, in accordance with Gov. Msg. No. 563;

WILLIAM A. KAMAI, in accordance with Gov. Msg. No. 564; and

ALDON K. MOCHIDA, in accordance with Gov. Msg. No. 565.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1474 and Gov. Msg. Nos. 547, 563, 564 and 565 was deferred until Thursday, April 23, 2009.

Senator Baker, for the Committee on Commerce and Consumer Protection, presented a report (Stand. Com. Rep. No. 1475) recommending that the Senate advise and consent to the nomination of RICHARD L. WILCOX to the State Board of Chiropractic Examiners, in accordance with Gov. Msg. No. 546.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1475 and Gov. Msg. No. 546 was deferred until Thursday, April 23, 2009.

Senator Tokuda, for the Committee on Higher Education, presented a report (Stand. Com. Rep. No. 1476) recommending that the Senate advise and consent to the nominations to the Hawai'i Medical Education Council of the following:

CHRISTI L. KELIPIO, in accordance with Gov. Msg. No. 465;

SUSAN R. MURRAY, in accordance with Gov. Msg. No. 466;

MARY E. WORRALL, in accordance with Gov. Msg. No. 467; and

DARRYL S. SALVADOR PSY.D., in accordance with Gov. Msg. No. 581.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1476 and Gov. Msg. Nos. 465, 466, 467 and 581 was deferred until Thursday, April 23, 2009.

Senator Tokuda, for the Committee on Higher Education, presented a report (Stand. Com. Rep. No. 1477) recommending that the Senate advise and consent to the nomination of JAMES H.Q. LEE to the Board of Regents of the University of Hawaii, in accordance with Gov. Msg. No. 580.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1477 and Gov. Msg. No. 580 was deferred until Thursday, April 23, 2009.

Senator Tokuda, for the Committee on Higher Education, presented a report (Stand. Com. Rep. No. 1478) recommending that the Senate advise and consent to the nomination of JOHN C. HOLZMAN to the Board of Regents of the University of Hawaii, in accordance with Gov. Msg. No. 579.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1478 and Gov. Msg. No. 579 was deferred until Thursday, April 23, 2009.

Senator Tokuda, for the Committee on Higher Education, presented a report (Stand. Com. Rep. No. 1479) recommending that the Senate advise and consent to the nomination of MICHAEL A. DAHLIG to the Board of Regents of the University of Hawai'i, in accordance with Gov. Msg. No. 306.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1479 and Gov. Msg. No. 306 was deferred until Thursday, April 23, 2009.

Senator Tokuda, for the Committee on Higher Education, presented a report (Stand. Com. Rep. No. 1480) recommending that the Senate advise and consent to the nomination of GRANT TUCK SUN TEICHMAN to the Board of Regents of the University of Hawaii, in accordance with Gov. Msg. No. 313.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1480 and Gov. Msg. No. 313 was deferred until Thursday, April 23, 2009.

ORDER OF THE DAY

ADVISE AND CONSENT

Stand. Com. Rep. No. 1450 (Gov. Msg. Nos. 310 and 468):

Senator Tokuda moved that Stand. Com. Rep. No. 1450 be received and placed on file, seconded by Senator Baker and carried.

Senator Tokuda then moved that the Senate advise and consent to the nominations to the Board of Regents of the University of Hawaii of the following:

ERIC K. MARTINSON, term to expire June 30, 2009 (Gov. Msg. No. 310); and

ERIC K. MARTINSON, term to expire June 30, 2014 (Gov. Msg. No. 468),

seconded by Senator Baker.

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

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

Stand. Com. Rep. No. 1451 (Gov. Msg. No. 309):

Senator Tokuda moved that Stand. Com. Rep. No. 1451 be received and placed on file, seconded by Senator Baker and carried.

Senator Tokuda then moved that the Senate advise and consent to the nomination of CHUCK YIM GEE to the Board of Regents of the University of Hawaii, term to expire June 30, 2010, seconded by Senator Baker.

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

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

Stand. Com. Rep. No. 1452 (Gov. Msg. No. 308):

Senator Tokuda moved that Stand. Com. Rep. No. 1452 be received and placed on file, seconded by Senator Baker and carried.

Senator Tokuda then moved that the Senate advise and consent to the nomination of MARK H. FUKUNAGA to the Board of Regents of the University of Hawaii, term to expire June 30, 2011, seconded by Senator Baker.

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

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

Stand. Com. Rep. No. 1453 (Gov. Msg. No. 307):

Senator Tokuda moved that Stand. Com. Rep. No. 1453 be received and placed on file, seconded by Senator Baker and carried.

Senator Tokuda then moved that the Senate advise and consent to the nomination of RAMON S. DE LA PENA PHD to the Board of Regents of the University of Hawaii, term to expire June 30, 2012, seconded by Senator Baker.

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

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

Stand. Com. Rep. No. 1454 (Gov. Msg. No. 567):

Senator English moved that Stand. Com. Rep. No. 1454 be received and placed on file, seconded by Senator Gabbard and carried.

Senator English then moved that the Senate advise and consent to the nomination of DAVID M. SAITO MD to the Medical Advisory Board, term to expire June 30, 2011, seconded by Senator Gabbard.

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

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

Stand. Com. Rep. No. 1455 (Gov. Msg. No. 593):

Senator Hee moved that Stand. Com. Rep. No. 1455 be received and placed on file, seconded by Senator Tokuda and carried.

Senator Hee then moved that the Senate advise and consent to the nomination of CAROLYN KEHAUNANI ABAD to the Island Burial Council, Island of Oahu, term to expire June 30, 2013, seconded by Senator Tokuda.

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

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

Stand. Com. Rep. No. 1456 (Gov. Msg. Nos. 594 and 595):

Senator Hee moved that Stand. Com. Rep. No. 1456 be received and placed on file, seconded by Senator Tokuda and carried.

Senator Hee then moved that the Senate advise and consent to the nominations to the Board of Land and Natural Resources of the following:

DAVID C. GOODE, term to expire June 30, 2010 (Gov. Msg. No. 594); and

JOHN MORGAN, term to expire June 30, 2013 (Gov. Msg. No. 595),

seconded by Senator Tokuda.

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

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

Stand. Com. Rep. No. 1457 (Gov. Msg. No. 560):

Senator Hee moved that Stand. Com. Rep. No. 1457 be received and placed on file, seconded by Senator Tokuda and carried.

Senator Hee then moved that the Senate advise and consent to the nomination of COLETTE Y. P. MACHADO to the

Kaho'olawe Island Reserve Commission, term to expire June 30, 2013, seconded by Senator Tokuda.

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

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

Stand. Com. Rep. No. 1458 (Gov. Msg. Nos. 596 and 597):

Senator Hee moved that Stand. Com. Rep. No. 1458 be received and placed on file, seconded by Senator Tokuda and carried.

Senator Hee then moved that the Senate advise and consent to the nominations to the Land Use Commission of the following:

THOMAS P. CONTRADES, term to expire June 30, 2013 (Gov. Msg. No. 596); and

NICHOLAS W. TEVES JR., term to expire June 30, 2013 (Gov. Msg. No. 597),

seconded by Senator Tokuda.

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

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

Stand. Com. Rep. No. 1459 (Gov. Msg. No. 586):

Senator Takamine moved that Stand. Com. Rep. No. 1459 be received and placed on file, seconded by Senator Taniguchi and carried.

Senator Takamine then moved that the Senate advise and consent to the nomination of EDWARD G. SANCHEZ to the Hoisting Machine Operators Advisory Board, term to expire June 30, 2012, 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 (Sakamoto).

Stand. Com. Rep. No. 1460 (Gov. Msg. Nos. 513 and 514):

Senator Takamine moved that Stand. Com. Rep. No. 1460 be received and placed on file, seconded by Senator Taniguchi and carried.

Senator Takamine then moved that the Senate advise and consent to the nominations to the Board of Trustees of the Deferred Compensation Plan of the following:

SCOTT A. KAMI, term to expire June 30, 2013 (Gov. Msg. No. 513); and

WESLEY MACHIDA, term to expire June 30, 2013 (Gov. Msg. No. 514),

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 (Sakamoto).

Stand. Com. Rep. No. 1461 (Gov. Msg. No. 587):

Senator Takamine moved that Stand. Com. Rep. No. 1461 be received and placed on file, seconded by Senator Taniguchi and carried.

Senator Takamine then moved that the Senate advise and consent to the nomination of CHRISTOPHER D. TATUM to the Hawai'i Workforce Development Council, term to expire June 30, 2011, 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 (Sakamoto).

ADOPTION OF RESOLUTIONS

MATTERS DEFERRED FROM TUESDAY, APRIL 21, 2009

Stand. Com. Rep. No. 1462 (S.R. No. 18, S.D. 1):

On motion by Senator Hooser, seconded by Senator Slom and carried, the joint report of the Committees was adopted and S.R. No. 18, S.D. 1, entitled: "SENATE RESOLUTION REQUESTING THE DEPARTMENT OF HEALTH TO IMPLEMENT A STATEWIDE RAINWATER DETENTION AND RETENTION POND SAFETY PROGRAM," was adopted.

Stand. Com. Rep. No. 1463 (H.C.R. No. 56, S.D. 1):

Senator Hooser moved that Stand. Com. Rep. No. 1463 and H.C.R. No. 56, S.D. 1 be adopted, seconded by Senator Slom.

Senator Slom rose in opposition to the measure and stated:

"Please have the Senate Clerk cast a 'no' vote for me on Stand. Com. Rep. No. 1463, H.C.R. No. 56, S.D. 1, opposing drilling the Arctic. Drill, baby, drill. Thank you." (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. 56, S.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE UNITED STATES CONGRESS TO PROTECT WILDLIFE AND WILDERNESS BY OPPOSING OIL AND GAS EXPLORATION AND DEVELOPMENT IN THE ARCTIC NATIONAL WILDLIFE REFUGE AND ON THE OUTER CONTINENTAL SHELF AND SUPPORTING CLEAN, RENEWABLE ENERGY ALTERNATIVES," was adopted with Senator Slom voting "No".

Stand. Com. Rep. No. 1464 (H.C.R. No. 65, H.D. 1, S.D. 1):

On motion by Senator Hooser, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 65, H.D. 1, S.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING HAWAII-AMERICAN WATER COMPANY TO IMPLEMENT AN ODOR MITIGATION PLAN FOR ITS FACILITY IN HAWAII KAI," was adopted.

Stand. Com. Rep. No. 1465 (H.C.R. No. 42, S.D. 1):

On motion by Senator Hooser, seconded by Senator Slom and carried, the joint report of the Committees was adopted and H.C.R. No. 42, S.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF DEFENSE TO ALLOW AVAILABLE HELICOPTERS TO BE USED FOR MEDICAL EVACUATION SERVICES," was adopted.

Stand. Com. Rep. No. 1466 (H.C.R. No. 19, H.D. 1, S.D. 1):

On motion by Senator Hooser, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 19, H.D. 1, S.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION STRONGLY URGING THE SECRETARY OF DEFENSE AND THE PRESIDENT OF THE UNITED STATES TO AWARD SERGEANT RAFAEL PERALTA THE MEDAL OF HONOR," was adopted.

Stand. Com. Rep. No. 1467 (H.C.R. No. 24, S.D. 1):

On motion by Senator Hooser, seconded by Senator Slom and carried, the report of the Committee was adopted and

H.C.R. No. 24, S.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE UNITED STATES POSTAL SERVICE TO ISSUE POSTAL STAMPS HONORING THE WORLD WAR II NISEI SOLDIERS, OTHER DISTINGUISHED MILITARY UNITS IN UNITED STATES HISTORY, AND AMERICANS WHO FOUGHT AGAINST DISCRIMINATION BASED ON RACE OR NATIONAL ORIGIN," was adopted.

At 11:44 a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:07 p.m.

FINAL READING

Conf. Com. Rep. No. 1 (H.B. No. 1741, H.D. 1, S.D. 1, C.D. 1):

Senator Kim moved that Conf. Com. Rep. No. 1 be adopted and H.B. No. 1741, H.D. 1, S.D. 1, C.D. 1 pass Final Reading, seconded by Senator Galuteria.

Senator Slom rose in opposition to the measure and stated:

"You will see me and hear me rising quite frequently in the next couple of minutes because what we're talking about are tax increases. And to some people, a particular tax doesn't seem to be very difficult, and particularly if they don't happen to use the service or the product, then they're okay with the tax. Now let's remember what this is all about: the conveyance tax. It's about conveying property. It's also about registering leases and all kinds of other things. Now, this bill raises to a level of \$2 million what the increase tax is going to be, but still it is an increase tax. It also points out that people that may have a second property would be subject to this additional tax.

"You know, we're in a period of time when we're trying to get people 'stimulated' and we're trying to get people to buy and to purchase things. And unless the conveyance tax is directly related to the actual act of the conveyance and the cost of the Bureau of Conveyances, then we should not be talking about increasing it; and yet we are, and we're just starting with this bill, and we have others ahead. So I will be casting a 'no' vote. Thank you."

Senator Kokubun rose in support of the measure and stated:

"You know, I think the conveyance tax is a necessary evil, if you will, in the sense that there are so many different programs aligned with real property that I think this is the best and most meaningful way to help provide for those services. Now, I know all of you know that, with respect to the conveyance tax, certain programs are funded through this, and I think these are very, very worthy programs. We're talking about the Land Conservation Fund, which leads to our Legacy Lands Program, where we can purchase property so that it will remain in the public domain. We're also talking about our Natural Area Reserve fund, which provides cost sharing for people doing watershed partnership programs; and it also provides moneys for the rental housing trust fund. So these are all, to me, issues that have a very rational nexus with the conveyance of property in this state. And I think what we have done with this bill actually is a very positive thing in the sense that we are continuing to have everyone share in this; everyone who conveys tax will be participating and providing for these services and these benefits to the greater good of the State of Hawai'i, and I want us to keep that in mind as we're looking to this.

"The other issue that I also want to raise is that this is not a permanent increase; that the way the rates are structured, that it will only be in play for three years and then after that it will return to the normal rates in terms of the distribution of funds for those very special services and projects. So, I would ask my colleagues to support this measure. Thank you."

Senator Ige requested his vote be cast "aye, with reservations, and the Chair so ordered.

The motion was put by the Chair and carried, Conf. Com. Rep. No. 1 was adopted and H.B. No. 1741, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE CONVEYANCE TAX," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 17. Ayes with Reservations, 1 (Ige). Noes, 7 (Baker, Bunda, English, Green, Hemmings, Slom, Tsutsui). Excused, 1 (Sakamoto).

Conf. Com. Rep. No. 2 (H.B. No. 1747, H.D. 1, S.D. 1, C.D. 1):

Senator Kim moved that Conf. Com. Rep. No. 2 be adopted and H.B. No. 1747, H.D. 1, S.D. 1, C.D. 1 pass Final Reading, seconded by Senator Galuteria.

Senator Hemmings rose in opposition to the measure and stated:

"Madam President, it's, I guess, politically correct and sounds awfully appealing to the huddled masses out there yearning to breathe free that this is a tax increase on the rich, but that's not necessarily true. And further than that you cannot help the poor by destroying the rich, and you cannot further the brotherhood of man by inciting class envy or even hatred. 'We'll punish the rich,' seems awfully popular these days, both here locally and nationally, but it's important to ask ourselves, in raising taxes, what the impact is on Hawai'i in its totality, and then secondly, where the taxes go.

"I think we can safely say that this session is probably the biggest session in the history of the state for raising taxes. And it's necessary in some areas that we have progressive taxation, but it's not a necessary evil as the previous speaker said because there's an alternative to raising taxes, and that is to reduce spending. In looking over the spreadsheet on previous budgets, the gross domestic product in '07 was approximately 5 percent; the state budget grew by 8 percent, as it did the following year, and the gross domestic product for the nation went down. This year with all the problems we have, in looking preliminarily at HB200, we're going to have to reduce spending from the previous year by approximately 1 percent. So we have to make up a lot of money.

"The Ways and Means Committee Chair has a daunting task in front of her. She's reducing spending marginally by approximately 1 percent, but that won't cover what we have to pay for. So what follows is a dramatic increase in taxation that will be very regressive for the economy. And who are we doing this for? Who's benefitting—the people paying the taxes? No. The people that are working in the private sector trying to survive? The people that are getting laid off and collecting unemployment? This is being done for one special interest group to walk away from the state crisis without contributing a thing, and that is the government employee unions, mostly the HGEA.

"It's important to note what this Legislature has done for this special interest, and I recognize how powerful they are in that first Tuesday in November. I also recognize I have that day off as a convenience—a paid day off, by the way—which the private sector does not enjoy. This special group enjoys pay benefits far in excess in some areas than their counterparts in the private sector. Their perks, or benefits, the number of days off, far exceed the private sector. In many cases and as we've seen by numerous audits, they're immune from accountability. They are immune from being held accountable for misdeeds and poor work; and yet, throughout this whole budget process, they're going to walk away unscathed under this current plan. And it goes back to when, I believe it was, 13 of the legislators

did a 180 on their previous vote under the leadership of Governor Cayetano; public unions were required to strike when they had an impasse. But a number of people on this floor reversed themselves on that vote and voted to go back to collective bargaining. And as the union says in their manual, they elect their bosses and their bosses have done them well. Because every year since then, the entire budget process has been one designed in collective bargaining years to put as much money in the general fund as possible, so when you go into binding arbitration, the arbitrators say, 'Well, we can give you the 3, 4, 5 percent pay increase because the state has enough money.' And that money sometimes is taken from the mouths of the needy and the poor and the hungry. I remember one year when it was just absolutely scurrilous that we raided all the special funds in order to fund human service programs rather than funding them out of the general fund. And we're doing it again this year because we have to keep the fatted calf untouched by the economic crisis; while in the private sector, numbers of people are being laid off and suffering these hardships in these poor economic times. No public workers to date have been laid off, except those that are being proposed to be laid off who are not unionized.

"This specific tax, added with all the other taxes—and some of the numbers are hard to come by because we don't know what the final verdict is going to be—is going to take over one half billion dollars a year, by our calculations, out of the private sector economy and put it into the general fund. And we know who it's for, and it's not for the good working people of Hawai'i. I would suggest to those union members who do work hard and do suffer in this economy like everyone else—which they do because they live here—that they've passed the point of diminishing returns that they too suffer at the hands of excessive taxation and poor performance by government in many areas as audit after audit shows.

"So, we think we're doing a good thing here, or some think, because this is a politically correct tax on the rich. Well, it's not. It's a tax on the economy that, coupled with the rest of the tax increases, is going to fund an increasingly expensive government that oftentimes fails the people in many areas, such as public education; and yet public workers walk away unscathed by this crisis. It's just not fair, and it will come back to haunt us. I especially like that a number of these tax increase bills are somewhat recognized as being onerous because they're being repealed in the year 2015. If they're such good ideas, why would we repeal them? We'd repeal them because we know they're not good ideas. And it's a sleight of hand because I don't recall of many instances where taxes that have been enacted had been repealed. So this is just another nail in the economic coffin of Hawai'i; and added together with all of the other tax increases we will be voting on over the next several weeks, it will make Hawai'i a more expensive and less productive place to live in.

"I urge my colleagues, when voting on these bills, to not only look at the exact bill but look at the big picture. We have been ranked consistently amongst the highest taxed people in the nation, and increasingly we tax the poor the most; although income tax brackets had been adjusted in some bills and other bills are allowing tax breaks allegedly for the working poor. But Hawai'i nevertheless, according to a special report by the Tax Foundation of America, is ranked number five in the nation for state and local tax burden on its people. And that's what makes living in Hawai'i so problematic, especially for the working poor. So I'd urge my colleagues to really look at the big picture when voting on these taxes because they will ultimately reduce revenue to government because people are not going to be able to afford to work and live and invest in Hawai'i and they'll go somewhere else. Thank you, Madam President."

Senator Hooser rose in support of the measure and stated:

"Frankly, I don't know where to start, so I apologize if I jump around a little bit in my remarks. You know, for one to say it's politically correct or politically popular to raise taxes is ridiculous at best. None of us here take any pleasure or get any political points for proposing tax increases whatsoever. None of us here are demonizing the rich. We all have—I hope we all have—some friends who have money and who will be taxed at these levels. Rather, I think it's politically correct for the other side to demonize public workers. It seems like that's the politically correct, the bandwagon. Let's bang on public workers. Let's bang on the clerks. Let's bang on those fixing our roads and our highways. Let's bang on the secretaries. Let's bang on the lifeguards, the police, our teachers. Oh, no, let's not forget them—let's bang on our teachers.

"You know, we have to raise income to balance the budget. We will be cutting programs. We have already cut jobs. Public workers have already paid the price and will continue to pay a price, certainly with their health care benefits; I think most understand that. The question was asked, 'Who benefits?' Well I think the people that benefit are the people that use the services: the people that use the parks; the people that use the roads, the highways, the airports; people that stand in line to get their driver's licenses; people that benefit from the health department; people that benefit from mental health services. There's a long list of people who benefit, colleagues and Madam President. It seems the Minority leader wants to benefit but doesn't want to pay, doesn't believe anybody should pay any more money for these benefits, but believes those public workers, whom many are friends of all of ours... Our children grew up with them; they play soccer together. They're our neighbors, those public workers who provide the services. It seems that some in this room don't want to pay an extra dime for those services but want the people that provide the services to pay that extra dime. So they want public workers to provide the same services and take pay cuts and take layoffs, take reduction in benefits. Something's wrong with that picture. And frankly, we've been getting it—most of us all week long, maybe for the last few weeks. People saying, 'No, no, no; don't do this. Don't cut me. Don't raise my taxes. Don't cut the services.' But fortunately there's only a few that spend their time bashing public workers, wanting us to reduce their pay, reduce their benefits. Well, let's just get rid of them. Oh, but we need the services.

"You know, these are my friends. These are office managers, these are clerks, these are staff members, these are people in this room today helping us to pass laws, helping us to run the business of government, and I for one have a difficult time hearing over and over again how they must bear the burden of balancing the state budget. They're nurses. We didn't hear the hospital system mentioned today; we probably will before the end of the day.

"We hear how public workers get paid more and more than the private sector, more and more benefits. In some cases that's true, but in many cases it's not. Electricians, welders, carpenters, auto mechanics, equipment mechanics all get paid less in the public sector than they do in the private sector: electricians, 32 percent less; pharmacists, 40 percent less. Medical record librarians, clinical psychologists, auditors, occupational therapists—there's a long list of people in the public sector who get paid significantly less than the private sector. And, yes, they have their vacation, they have their medical; and they choose to work in the public sector because of those benefits and they take less pay. And by the way, they negotiate that pay with the administration. Our current Governor has negotiated and agreed to the current levels and the benefits that public workers have today. I, for one, have a difficult time changing the rules on public workers who have negotiated in good faith just because people who use the services aren't willing to pay more. These are people that run

our schools, our airports, our highways, our hospitals, our police. Yes, let's bang on public workers. Let's pick on the good, hardworking people who provide these services. They're not overpaid. Yes, the benefits are good, but the pay is often less; and again, they negotiated and agreed to this pay. Yes, it's easy to say, 'Everybody must share.' Everybody except the tourists, everybody except the wealthy, everybody except property buyers, everybody except business, must pay. Let's put it all on the back of the public workers. It's easy to bang on the clerks and the janitors. Why don't we bang on the bankers who created this mess in the first place? Why don't we bang on President Bush, who through his policies led us down this path? Why don't we bang on HMSA? Bang on Hawaiian Tel? Bang on AIG? No, no, no, let's pick on the clerks and the bus drivers. Why don't we bang on the Governor who's had six years to streamline government, to reduce cost, to modernize government, to put into place programs that might have resulted in a better condition than we're in right now? No, we're not going to bang on the Governor. We're not going to bang on big business. We're going to pick on labor. We're going to pick on public workers. Public workers are to be the whipping boy of the day.

"Madam President, I, for one, realize that everyone does have to share, and public workers are sharing in this, but we have to raise taxes. No one likes to do it. We have to spread it around the community, and I encourage my colleagues to vote in support. Thank you."

Senator Hemmings rose in rebuttal and said:

"I'm not bashing all public workers, and I certainly agree with the previous speaker that most are good, conscientious public workers. But many are not. I won't go over all the audits, but I think you will remember—certainly because we convened a special commission to investigate it—the audit of the Conveyance Department showing they collected hundreds of thousands of dollars in one year in overtime and produced less work because they made an art form of exploiting the system. Literally they received more money for doing less. I think we've seen a similar article on the exploitation of overtime in other departments, such as the Department of Public Safety, which was audited. So, yes, it's true; most public workers do a good job, but many don't.

"It's amazing how deceptive, or how perception can be different because I, too, have the 'accurate' information—and I'll tell you the whole story and not try to deceive you by just telling you half of it—of what compensation is for public workers. In Bargaining Unit 1, it's true as the previous speaker said: electricians and welders and carpenters, high-end specialists do make less than their counterparts in the private sector. But plumbers make 6 percent more, groundskeepers make 9 percent more, general laborers make 10 percent more, cooks make 15 percent more, kitchen helpers make 28 percent more, warehouse workers make 34 percent more, general laborers make 39 percent more. Should I go further? In Bargaining Unit 13, personnel specialists make 4 percent more, accountants make 6 percent more, recreational therapists make 22 percent more. Bargaining Unit 3: secretaries, 8 percent; data entry, 11 percent; legal secretary, 14 percent; personal clerk, 22 percent; secretary III, 37 percent; secretary IV, 54 percent. So the facts are when you combine that with their benefit package—21 vacation days a year as compared to the private sector's 10 after working 10 years, and sick leave, 21 days can accumulate up to 90—the private sector is not as well compensated in most instances as the public sector. So it's just not true what the previous speaker said; and the numbers here are to validate, and if anybody want to see them I'm more than happy to show them.

"We are raising taxes. And there are alternatives to balancing the budget, and we've talked about them before. We

can privatize many services that can be done better and for less money by the private sector. And we can protect public jobs by having a warm-bodies policy and reduce the workforce through attrition. No one has to lose their jobs. I'll quote again what I said before: The alternative is, for instance in prisons, to send our prisoners to Arizona where it costs half as much to incarcerate a prisoner and keep the public safe. What are we doing this session? We're probably going to bring them home so we can pay twice as much when we can't even afford what we already have. And yes, I will talk about the education system. If they're doing such a good job with their bureaucracy, how come we can't get the numbers on where the money's going? How come they get you, the Majority party, to not even allow us to audit them as we audit everybody else? We do know we're spending \$2.4 billion on public education, or have been. And we do know, by national rankings, they're producing about the 47th ranked product in the nation when it comes to educating our kids. And hospitals; hospitals, hospitals, hospitals. How I love those hospitals, because this year we're going to spend \$50 to \$60 million in the next several years subsidizing monopoly hospitals on Maui, Hilo and Kona, when services could easily, as is done on Oahu, be provided by private sector. But what we're really doing is taking taxpayers' money, including union workers' money, and subsidizing huge, economic losses in monopoly state hospitals. So, there are alternatives to raising taxes. It's just not true.

"Quite frankly, I want to set the record straight: I am not demonizing public workers. I'm demonizing the Majority party, who continues to abuse everyone in this state with high taxes and in many instances, poor government services, including public workers who suffer. I might note that we are one of the states with the highest number of students in private education, many of them children of public workers. Several years ago, they did a survey of present and previous HSTA teachers and found out that they themselves sent their kids to private schools.

"So let's be honest, and let's especially be honest when we start talking about the numbers, about their compensation, because the previous speaker really misled us by only giving you the figures he wanted you to hear and not all the figures and not the big picture. The facts are public workers are very generously compensated, they're immune from accountability, very few if any of them have been laid off for cause or otherwise for economic hardship, while the private sector suffers tremendously. We are heaping more taxes on the private sector to protect this system which is not serving everyone, including unionized workers. I stand by my position on this, Madam President, and time has proven me right."

Senator Espero rose in support of the measure and stated:

"The good Senator from East Honolulu has mentioned that we have to look at the big picture, and I think no one here will disagree with that statement. The big picture is that these budgetary times are probably the most difficult we have faced since statehood. There are some individuals who say that, nationally and globally, this is the worst it has been since the Depression. In Hawai'i the signs are very, very stormy and gloomy. The visitor count is down and we expect it to be down through the end of this year. Foreclosures are on the rise. Bankruptcies are on the rise. Unemployment is the worst in the last 30 years at 6.5 at least, and I wouldn't be surprised if it hits 7 percent before the end of this year. So that is the backdrop and the environment before this legislative body, and the decisions that we are making today in raising taxes and other measures between now and the end of session will be thought of very carefully, no doubt.

"As was stated, nobody likes the idea of raising taxes, but before this session is ended we will probably have raised some taxes. We will probably have taken pay cuts for some state

employees. We will likely be having some state employees laid off, losing their jobs. We are looking at a reduction in programs and services within every agency and every department in the state; and the trickle effect on non-profit organizations within the state, which help every single one of our districts and the constituents we serve are going to be severely, negatively impacted as well. The taxes we're looking at, I believe, are reasonable when you look at the bigger picture. We're not looking at one big tax or one big cut somewhere. We are attempting to sacrifice throughout and transfer what we must do through all segments of our government. It is a difficult time, and at the end of session we are going to be responsible for the 1.2 million people who live in this state, and it is our jobs to make those difficult decisions which must be made.

"I'd also like to go back on the comment regarding public education. I believe the Senator from East Honolulu said that public education is a failure in this state. That is a completely wrong statement. It is incorrect. It is false. Public education is not a failure in our state. I can tell you, in my district we are educating and graduating very productive members of our society; these young men and women who will go on into college, who will join unions, who will join the military, and become other productive members. If there are problems in the good Senator's district, I'm certain that he will look into them and recommend the changes that have to be made. To say we've never audited the Board of Education or DOE is false. We have audited them. They have been reviewed and reevaluated, maybe not to the standard you want, but we have. It is not as if they are running like a chicken without a head.

"But, Madam President, I do support H.B. No. 1747, which we are voting on now. It is one small tax increase, yet it is just one segment of what we must do in order to close this \$2 billion gap over the next two fiscal years. Thank you."

Senator Slom rose in opposition to the measure and stated:

"There were a lot of things said and I'm not going to try to rebut them all. I just want to make sure that we put a couple things on the record. First of all, we're not talking about a small tax increase; we're talking about a projected \$60 million per year for this bill. If we take the bills that are on our agenda, the proposed increases would be over \$330 million in fiscal year '10 and another \$445 million in fiscal year '11; so we are actually approaching a trillion dollars just in tax increases, so it is significant.

"And, you know, every time I hear somebody say, 'Well, no one really likes to raise taxes,' then I have to ask myself, 'Then why do we raise these taxes? Why do we do it?' And why don't we listen to the people that tell us that they don't want taxes raised? Not that they're not going to pay more or pay for what they're using; they're already paying. They're among the highest paying taxpayers in the nation. And what they're saying to us, everyone one of us, is: 'You're supposed to represent us. You're supposed to look at the big picture of the economy as a whole.' Now if it were a question of taxing into prosperity or spending by government into prosperity, then we would have numerous examples to look at throughout history and throughout our community. But, unfortunately, we can't find one; not one example where more government, bigger government, more expenditures, more taxation has resulted in more prosperity. It's just the opposite.

"You know, we continue to talk about the rich and the wealthy—not only in this bill but in others—and yet all of us in this room know that Hawai'i is a special situation in terms of income, particularly gross income. That's why we don't have a sales tax; we have a gross income excise tax. And we know that people here probably work more jobs per capita than anywhere else. And so, guess what? The gross income is higher than in most areas. But so is the housing. So is the

health care. So is the food. So is the transportation. So is everything that we do. And yet, we talk about 'the rich.' If we look in the mirror, we find out in most cases, we are the rich that we're talking about. And then we can look at small businesses; and we get a lot of platitudes from this body about how wonderful small businesses are, and how important they are to the community and the nation, and yet we go along and we regulate them. We prohibit them, we add employer mandates, and we have taxes. And for anybody that knows anything about businesses, both here and on the mainland, they know that most businesses—primarily sole proprietors that make up the largest segment of businesses—pay on a Schedule C through their income tax, thus giving the gross income tax a boost which is not found in most other places. And these are the people that we're talking about taxing. And that's what we do.

"Madam President, you know that for the last couple years, I've always taken issue with the so-called conformity bill, the bill that would conform Hawai'i's tax laws to the Internal Revenue Code laws. And one of the things I've always pointed out is something that's addressed in this bill: that in the State of Hawai'i at \$1,040, a person is about one-third of what he or she is according to the IRS and federal tax guidelines because that's the amount of the personal exemption. One-third of what it is on federal returns and in most other states. Now this bill seeks to do two things to lessen the impact of the tax increase. One is to minimally increase the standard deduction which several of us have argued for for years, but it's a minimal increase. And secondly, it seeks to increase the personal exemption; and it would go all the way from the current \$1,040 per person right now up to \$1,144 if this bill is passed. We still would be treated as one-third of what the federal exemption is. So, this bill, when everybody says how difficult it is to raise taxes, it is difficult because it doesn't succeed in stimulating the economy. And if people are having difficulty in paying bills and costs and taxes right now, how does adding to that burden by these tax bills make it any better or any easier or any more fulfilling?"

"And again, not to belabor the point or kick a dead horse; the Minority leader has never said that he has a problem with public or government workers. He doesn't 'bang' them. What he has said is: In the era of the Obama 'shared sacrifice', where all of us are supposed to be sharing, there is no sharing coming from the government sector. Now you can argue, 'Well, that's going to be the subject of collective bargaining later on.' But if there's money in the till—if there's more than \$1 billion in new taxes—then that goes into the collective bargaining process and certainly into the arbitration process. And the argument then is: 'Oh, what do you mean the state doesn't have money? Look at what you've got,' and you've got more sources of revenue.

"So we're not doing anybody a favor by raising taxes. We're not solving our economic policies by raising taxes. The pure and simple fact is our government has gotten too bloated, too big, and that's what the thousand or more people tried to tell us last week at this Capitol. And by the way, they were not members of any particular political party, or they were members of several different political parties, but most of them were not members of political parties. They were just coming here to ask us to please, please listen to them and to do things for them; and if we pass these tax bills, we are ignoring them completely. And the only people that get banged are the people that are called upon to pay all the bills: the taxpayers and small businesses of this state. Thank you, Madam President."

Senator Hooser rose in rebuttal and said:

"Just a couple of things I believe that deserve a rebuttal: On the Center on Budget Policy Priorities, April 20, 2009, lots of states are going through the same process we're going through trying to balance their budgets, trying to balance between tax increases and cutting services. But in this paper written at the

start of the last recession, Nobel-prize winning MIT economist Joseph Stiglitz and his associates, Brookings Institute economists, now director of the Federal Office of the Budget and Management, concluded that tax increases on higher income families are preferable for closing state fiscal deficits in the short-run. And this bill does have a sunset on it; 2015, as was brought up. But in the short-run, tax increases on higher income families are preferable because they reason the reduction in government spending on goods and services or in the transfer of payments to lower income families. So if we're going to take away money from lower income families, we're going to take money away from goods and services, that's money that comes out of the economy and reduces money in circulation and reduces demand on the economy. By contrast, taxes on the higher income, wealthiest individuals/households, the impact on the economy is not as great because most of that additional payment comes out of savings rather than out of funds that are spent on a regular basis. So the studies clearly show that this has less of a negative impact in terms of taking money out of circulation.

"There is also extensive information I'd be happy to share with the members that talks about the fallacious argument that says this is going to cause people to flee the community. The studies clearly show that wealthy individuals do not look first at the tax rates of the states. They look first at the environment. They look first at the weather. They look first at the quality of life issues. And states that have raised similar taxes in the past have not seen a flight of capital or of individuals to other states. So thank you, Madam President."

Senators Ihara and Ige requested their votes be cast "aye, with reservations, and the Chair so ordered.

The motion was put by the Chair and carried, Conf. Com. Rep. No. 2 was adopted and H.B. No. 1747, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 18. Ayes with Reservations, 2 (Ige, Ihara). Noes, 6 (Baker, Bunda, Gabbard, Green, Hemmings, Slom). Excused, 1 (Sakamoto).

Conf. Com. Rep. No. 3 (H.B. No. 1175, H.D. 3, S.D. 2, C.D. 1):

Senator Ige moved that Conf. Com. Rep. No. 3 be adopted and H.B. No. 1175, H.D. 3, S.D. 2, C.D. 1 pass Final Reading, seconded by Senator Kim.

Senator Slom rose in opposition to the measure and stated:

"Boy, it's really popular to stand up and defend cigarettes from another tax increase, isn't it? Because we've made cigarettes into one of the evils, just like the combustion engine of the automobile; so let's tax them. You know, the argument used to be that we're doing this because of second-hand smoke. We're doing it because of health. We're doing it because of employees. Well, that was all a shibai. We don't have to worry about that anymore because we're doing it purely for money. And the reason that we're only raising it a little bit each year, little bit more, is because we want that money to keep flowing in. And then we have the recipients of the money fighting over where the distribution is. Remember when it was all going to be for education to stop young people and others from smoking? Now, we've got different uses for that money. So, the point is: What is the real justification for raising the cigarette tax? Because it's easy to do. We can do it on those smokers. And for those of us that don't smoke, don't believe in smoking, advise against it but still say that raising the taxes and even accusing these people of being sinners—because after all, cigarettes represent a 'sin tax'—makes it all too easy, especially when it's about money, and that's what it's about. If people really felt the health issues were important, as I've said time and

time again here, then try to ban cigarettes and all tobacco products and everything else you don't like: soft drinks and candy and the combustion engine and all of that. Ban them. See if you can. But you'll know you have a hard time doing that because cigarettes, like the automobile, represent freedom; the freedom of people to choose to do what they want to do with their life even knowing what the risks are. And for us to be very pompous, to say, 'Well, they shouldn't do that, but we're not going to make sure that their health is protected. We'll just tax them more for it.' And that's what we're doing and that's what this bill does. It's kind of like cooking the frog. We don't put the frog in hot water; we put him in cool, tepid water, and then keep raising the temperature, and that's what we're doing here. So I have no problem standing against yet another tax increase. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 3 was adopted and H.B. No. 1175, H.D. 3, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Slom). Excused, 1 (Sakamoto).

Conf. Com. Rep. No. 4 (H.B. No. 895, H.D. 2, S.D. 2, C.D. 1):

Senator Ige moved that Conf. Com. Rep. No. 4 be adopted and H.B. No. 895, H.D. 2, S.D. 2, C.D. 1 pass Final Reading, seconded by Senator Kim.

Senator Slom rose in opposition to the measure and stated:

"Tobacco products. Well, here we go. If I don't like cigarettes, I don't like tobacco products, but there's a lot of tobacco products. There's this pipe, there's this cigar—and by the way, we have some extra cigars for those in the gallery who are here who love to smoke a cigar but don't want to talk about it now. Why are we doing this? Why are we raising wholesale prices again on these products? Why? Money, and because it's easy; and we call them 'sin.' They're legal products, they're legal activities, and yet we're saying, 'Let's raise the wholesale price.'

"And then we go even further. We want to make sure we micromanage and we pick out little cigars, and we define 'little cigars,' and then we also have a tax for the circumference, or ring size, of large cigars. I'm sorry, Madam President, I do apologize; I could not get a large enough Clinton cigar to go with these here. I just have regular-sized cigars. But that's what we're doing: 'other' tobacco products. And it won't be long before we go after 'other' food products and 'other' things that you do because that's what government is trying to do. It does not support freedom. It does not support choice. It does not allow for different lifestyles, except in maybe the sexual area, but not in the private consumption area. This is a mistake. We shouldn't be doing this. I'm voting 'no.' Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 4 was adopted and H.B. No. 895, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAX ON TOBACCO PRODUCTS OTHER THAN CIGARETTES," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Slom). Excused, 1 (Sakamoto).

Conf. Com. Rep. No. 51 (S.B. No. 199, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Kim, seconded by Senator Kokubun and carried, Conf. Com. Rep. No. 51 and S.B. No. 199, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," was recommitted to the Committee on Conference.

Conf. Com. Rep. No. 52 (S.B. No. 1111, S.D. 1, H.D. 1, C.D. 1):

Senator Kim moved that Conf. Com. Rep. No. 52 be adopted and S.B. No. 1111, S.D. 1, H.D. 1, C.D. 1 pass Final Reading, seconded by Senator Kokubun.

Senator Slom rose in opposition to the measure and stated:

“Well, here’s the trifecta. Now, we’ve gone after the sinners. We’ve gone after small businesses. Now we’ll go after the ailing visitor industry. We’re going to raise the hotel room tax, the transit accommodation tax, by 1 percent next year, another 2 percent after that. You know, we’ve had all kinds of summits and task forces and people getting together trying to figure out how can we balance our visitor industry in times where it’s really difficult and times where the President of the United States says don’t go on trips to places like here. We’ve seen that the private partners within the industry have tried to put together packages, lower prices, to make it more attractive to people across the country—the value-added aspect. And yet, here’s what we’re going to do: We’re going to say again, we’re going to tax the visitor industry. We’re going to put a tax on them. And when people do look at vacation and business destinations, they do look at the total cost. They look at the car rental cost. They look at the hotel room cost. They look at the transportation cost, in total. And perhaps, just one aspect of that may not be enough to discourage or to encourage the travel, but when you put all of these things together and people look at it, they say we’re going after the tourists at a time when we say that we want to rebuild the industry. I think it’s very short-sighted.

“All of us have heard from the people in the industry. They don’t support it. They don’t say it’s a positive thing. They don’t say that there’s any way of putting a spin on this other than it’s going to be more costly for people to come to Hawai’i either on business, for pleasure, or for eco-tourism or anything else. Why do we do these things? It’s not going to pay benefits. It is going to cost us more in terms of revenues of people that don’t come here. Please reconsider your vote. Thank you.”

Senator Kim rose in support of the measure and stated:

“It’s never a good time to increase the TAT, and from its inception in 1987 and years leading up to its adoption, of the TAT, the visitor industry has argued that a hotel room tax would impact negatively upon the visitor and will prevent visitors from coming to Hawai’i. But this did not happen. Six years later in 1994, the TAT went from 5 percent to 6 percent to create a revenue stream for the debt service of the Convention Center. The economy in 1993 was not robust. In fact the economy had slowed as a result of the first Gulf War that put us in a prolonged slump that lasted nearly until the end of the 90s. In 1999, the Legislature once again raised the TAT to its current level of 7.25 percent. The economy was still challenged, which is evidenced by the convening of the ERTF, the Economic Revitalization Task Force, during the 1997 interim. In fact, raising the TAT was one of the proposals put forth by the ERTF to comprehensively address the economic downturn and to support programs and marketing efforts of the industry.

“Today, we have several bills in conference that supports the effort of HTA. One of them is to redefine the use of HTA’s \$5 million emergency fund and another to give them \$10 million additional funding for marketing. And despite the doom and gloom of the past that the TAT would hurt visitors’ arrivals, Madam President, Hawai’i’s visitors’ totals soared to over 7 million visitors. And during this time the industry entertained programs of carrying capacity, to limit the number of visitors, and targeting just the higher spending visitor. So, Madam President, our visitor industry is not the problem. In fact, they

are part of the solution, and as I have pointed out, they have been just that in our past economic downturn. So as part of the solution, we all need to share in the cuts, raising of revenue, and in sacrifices.

“This bill raises the TAT 1 percent, or to 8.25 percent, from July 1, 2009, to June 30, 2010. And then it raises it another 1 percent—9.25 percent—so the bill reads 2 percent from July 1, 2010 to 2015. Amending this bill with the sunset provision in 2015 allows us and the House and the industry to evaluate and reevaluate the actual impacts on this bill for next year and up until 2015. Madam President, I urge the members to support this measure. Thank you.”

Senator Hemmings rose in opposition to the measure and stated:

“I agree with the previous speaker’s history of tax increases in the travel industry and the impacts because they’re undeniable. Everything she said did happen. But we’re not talking about the 1990s; we’re not even talking about the turn of the 21st century. We’re talking about now, and we’re talking about—excuse the metaphor—the goose that is laying the golden egg. And the facts are these times are quite a bit more perilous than the ones previously talked about. Visitor arrivals have been decimated by the national slowdown in the economy. People have become incredibly price sensitive. Retirees have lost 30, 40, 50 percent of their IRA value. Investors, likewise, have lost. People are not travelling, and when they do, they are very wary of how much they spend. I’ll read some numbers from a much respected leader in the travel industry whose family has been doing business in Hawai’i since the 1940s. He made a comparison of a Waikiki package compared to similar hotels, 4 star hotels in Acapulco. The average cost of the Waikiki package was \$733; Acapulco was \$661. What we’re doing here today will add to the cost of the Hawaiian package and make us less competitive.

“But people say, for the most part, that TAT increases is exported and is paid by people who come here, so we’re trying to eliminate the hurt for our residents when we’re raising taxes. Well, as I quote, that sounds good but in real life there’s a serious consequence. Tax collections may actually go down when the tourist market suffers, as they have. We have evidence now. This beleaguered industry that’s suffering 20 percent reduction in arrivals is directly responsible because it’s the single and biggest producing private sector industry in Hawai’i, is the reason why our tax receipts are down.

“So let me see if I’ve got this right: You guys aren’t paying enough taxes because you don’t have enough business to pay your taxes, so we’re going to solve it by taxing you more. Does that make sense? No, it doesn’t. We’re further eroding our tax base by increasing taxes in the worst time to do it, in a time when the industry is struggling. I would submit to you that this is going to further damage our travel industry and result in fewer taxes collected rather than more. So, I urge my colleagues to give consideration to voting ‘no’ on this legislation.”

Senators Ige, Fukunaga and Ihara requested their votes be cast “aye, with reservations,” and the Chair so ordered.

The motion was put by the Chair and carried, Conf. Com. Rep. No. 52 was adopted and S.B. No. 1111, S.D. 1, H.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO TAXATION,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 19. Ayes with Reservations, 3 (Fukunaga, Ige, Ihara). Noes, 5 (Baker, Bunda, Green, Hemmings, Slom). Excused, 1 (Sakamoto).

S.B. No. 301, S.D. 2, H.D. 1:

On motion by Senator Baker, seconded by Senator Kim and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 301, S.D. 2, and S.B. No. 301, S.D. 2, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII REGISTERED AGENTS ACT," passed Final Reading on the following showing of Ayes and Noes:

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

S.B. No. 521, S.D. 2, H.D. 1:

On motion by Senator Baker, seconded by Senator Taniguchi and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 521, S.D. 2, and S.B. No. 521, S.D. 2, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO REAL PROPERTY," passed Final Reading on the following showing of Ayes and Noes:

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

Senator Ige, Chair of the Committee on Health, requested a waiver of the notice requirement pursuant to Senate Rule 21 for H.C.R. No. 35; H.C.R. No. 51; H.C.R. No. 148; and H.C.R. No. 214, H.D. 1.

Senator Ige noted:

"We received the referrals on these matters just yesterday, and we would like the opportunity to have a hearing before the deadline."

The Chair granted the waiver.

Senator Chun Oakland, Chair of the Committee on Human Services, requested a waiver of the notice requirement pursuant to Senate Rule 21 for H.C.R. No. 15; H.C.R. No. 16, H.D. 1; H.C.R. No. 34; H.C.R. No. 55; H.C.R. No. 120; H.C.R. No. 135; and H.C.R. No. 246, H.D. 1.

Senator Chun Oakland noted:

"We received the resolutions yesterday afternoon as well, and would like to have a hearing on them. Thank you."

The Chair granted the waiver.

Senator Kidani, on behalf of the Chair of the Committee on Education and Housing, requested a waiver of the notice requirement pursuant to Senate Rule 21 for H.C.R. No. 63; H.C.R. No. 89; H.C.R. No. 94, H.D. 1; H.C.R. No. 281; and H.C.R. No. 282, H.D. 1.

Senator Kidani noted:

"Your Committee on Education and Housing is requesting the waiver in order to meet the House concurrent resolution crossover deadline on Monday."

The Chair granted the waiver.

At this time, the Chair made the following announcement:

"Referrals and re-referrals are made in accordance with the Supplemental Order of the Day that may be distributed to your offices later this afternoon."

RE-REFERRAL OF HOUSE CONCURRENT RESOLUTIONS

The Chair re-referred the following House concurrent resolution that was received:

H.C.R. No.	Re-referred to:
H.C.R. No. 35	Committee on Health

H.C.R. No. 97, H.D. 1	Jointly to the Committee on Health and the Committee on Commerce and Consumer Protection
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H.C.R. No. 109	Jointly to the Committee on Health and the Committee on Commerce and Consumer Protection
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APPOINTMENT OF CONFEREES

S.B. No. 199, S.D. 1 (H.D. 1, C. D. 1):

The President appointed Senators Fukunaga and Tsutsui as additional managers 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. 199, S.D. 1.

S.B. No. 892, S.D. 1 (H.D. 2):

The President appointed Senator Taniguchi as co-chair 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. 892, S.D. 1.

S.B. No. 995, S.D. 2 (H.D. 3):

In accordance with the disagreement of the Senate to the amendments proposed by the House to S.B. No. 995, S.D. 2, and the request for a conference on the subject matter thereof, the President appointed Senators Hee, chair; Kim, Taniguchi, co-chairs; Fukunaga, Kokubun as managers on the part of the Senate at such conference.

S.B. No. 1677, S.D. 1 (H.D. 2):

In accordance with the disagreement of the Senate to the amendments proposed by the House to S.B. No. 1677, S.D. 1, and the request for a conference on the subject matter thereof, the President appointed Senators Hee, chair; Taniguchi, co-chair; Fukunaga, Kokubun, Takamine, Slom as managers on the part of the Senate at such conference.

H.B. No. 1260, H.D. 1 (S.D. 1):

The President appointed Senator Fukunaga 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. 1260, H.D. 1.

H.B. No. 1404, H.D. 1 (S.D. 1):

In accordance with the disagreement of the House to the amendments proposed by the Senate to H.B. No. 1404, H.D. 1, and the request for a conference on the subject matter thereof, the President appointed Senators Baker, chair; Kim, co-chair; Slom as manager on the part of the Senate at such conference.

ADJOURNMENT

At 1:08 p.m., on motion by Senator Hooser, seconded by Senator Slom and carried, the Senate adjourned until 11:30 a.m., Thursday, April 23, 2009.