

## FORTIETH DAY

**Thursday, March 29, 2018**

The Senate of the Twenty-Ninth Legislature of the State of Hawai'i, Regular Session of 2018, convened at 11:36 a.m. with the President in the Chair.

The Roll was called showing all Senators present.

The President announced that he had read and approved the Journal of the Thirty-Ninth Day.

Senator Rhoads requested that the names of visiting constituents introduced the previous day be entered into the Journal, and the Chair so ordered.

The Chair having so ordered, the names of the constituents were entered into the Journal of the Thirty-Ninth Day.

Senator Gabbard noted that it was the first Annual Vietnam War Veterans Day, and recognized a number of guests who were present in the gallery, including: veterans from all branches of the military who served from 1955 to 1975; Gold Star families and families of service members who were still missing in action; and members of the Fiftieth Commemoration of the Anniversary of the Vietnam War State Planning Committee, chaired by Colonel Jean Castagnetti, who volunteered their services for over three years to organize events welcoming home veterans such as creating the book, *A Time To Honor – Hawai'i Edition: Stories of Service, Duty, and Sacrifice from the Vietnam War*, and holding a recognition dinner, a concert, a parade, a joint ceremony at Punchbowl, and corresponding events on Molokai, Kaua'i, Lāna'i, Maui, and Hawai'i island.

Senator Ihara welcomed a group of fifth-grade students from King Liholiho Elementary School, who were present in the gallery with their teachers, Lynn Sakata and Fred Magnenat.

Senator Thielen introduced Jessie Garbeil, a student at Mid-Pacific Institute who had been serving as an intern in her office during spring break. Ms. Garbeil was seated in the gallery with Eliza Wilcox, Senator Thielen's legislative assistant.

Senator Baker recognized State Representative Della Au Bellati, co-convenor of the Women's Legislative Caucus and Majority Leader of the House of Representatives.

Senator Taniguchi extended an additional welcome to Ron Lockwood, an active member of the McCully-Mō'ili'ili Neighborhood Board for many years, who was seated in the gallery among the group of veterans.

Senator English acknowledged the presence of the Honorable Mark E. Recktenwald, Chief Justice, Supreme Court, State of Hawai'i, in the gallery.

Senator Kim acknowledged Mike Lilly, former Attorney General of the State of Hawai'i.

Senator Shimabukuro welcomed her constituents, DeMont Conner and Rachel Kailianu, who were seated in the gallery.

Senator Ihara congratulated the Hawai'i State Ethics Commission on 50 years of promoting ethics and integrity in state government, and presented the following remarks:

"Mr. President and colleagues, 50 years ago, in January 1968, Governor John Burns swore into office the first state ethics commissioners in the United States. That was in 1968. In 1967, the bill that established the States Ethics Commission passed without fanfare – not much floor debate. And the commission worked very hard in its first few years: They issued over 1,350 formal and informal opinions on ethics issues, many of which are effective today. (They're those many bound

volumes of opinions that some of you may have.) Hawai'i was also a national leader after the 1970s Watergate scandal, helping to form what's known today as COGEL – I generally go to that conference – the Council on Governmental Ethics Laws. It's a national good-government agency organization.

"Ethics commissioners volunteer hundreds of hours to safeguard the public trust by promoting, educating, and enforcing the highest standards of ethical conduct. In addition, good-government groups and activists and the media have aided in the cause of ethical governance in Hawai'i. Mr. President, I have the honor of introducing Hawai'i's ethics commissioners and others. First, commission chair Rey Graulty. Thank you, Rey. Senator Graulty, as we sometimes like to call him, is a former good-government legislator; he chaired the Senate Judiciary committee a couple decades ago – I believe your desk was on this side – and has also served as the state insurance commissioner, a circuit court judge, and ethics professor at Chaminade University. Next, vice chair Ruth Tschumy. Ruth is vice chair of the commission; she's a retired teacher, author, and member of many nonprofit boards and serves as a volunteer mediator with the Mediation Center of the Pacific. Next, welcome Melinda Wood. Melinda is an active community volunteer, former immigration specialist, and retired East-West Center grants specialist. We also have David O'Neal. David is general manager of Mililani Town Association. He previously worked in the healthcare industry and is active in the community. And the last commissioner is not able to join us: She is Susan DeGuzman; she's a 30-year employee who retired from the judiciary. So, thank you all for your volunteer service. Also joining us today is Ethics Commission executive director Dan Gluck. Before joining the Ethics Commission, Dan served 10 years with the American Civil Liberties Union, leaving as its legal director – a successful one, I believe. He's also clerked for Justice James Duffy and U.S. District Judge Michael Seabright, and has taught civil rights seminars at UH Richardson School of Law. Finally, Mr. President, we have someone who is the institutional memory for the commission, who's been with the commission as long as I've been here: Susan Yoza; she is the associate director since 1987.

"I also want to thank the special guests who've joined us in the gallery, some of whom have been recognized. The chief justice has been recognized. We also have the commission's hard-working staff: Nancy Neuffer, Virginia Chock, Bonita Chang, Kee Campbell, Patrick Lui, Christina Longman, Lynn Santiago, and Pat Mukai. Also, we have joining us another good-government agency, Campaign Spending Commission: I wanted to introduce Kristin Izumi-Nitao, executive director of the Campaign Spending Commission, as well as Tony Baldomero. And then, also, we have one of the early executive directors of the State Ethics Commission: I believe Gary Slovin is in the house today. Thank you. Now, I'd like to turn the floor over, Mr. President, to the senator from Kalihi."

Senator Kim rose and stated:

"I, too, want to join in with my colleague in congratulating and commending the men and women of the Ethics Commission for their service and their commitment to upholding the highest standards for conduct of public officials. You know, it's not often easy to deal with ethics and to have ethics legislation because it's not always black and white and, as lawmakers, we do follow a set of standards, and I believe we all make every effort to uphold those standards with the highest regard. However, there's often misconceptions; there are many gray areas, and much of this has caused a loss of confidence, sometimes, with the public and the people that we serve. It leads people to feel disconnected from government, and that's

why it's so important that we do have transparency and accountability in our democracy and here, in the Legislature. These values help to strengthen and validate the democratic process, and our ethics code is instrumental in upholding these values of transparency and accountability and to maintain the public's trust and reaffirm the importance of honesty and integrity in our conduct. And in this regard, the Ethics Commission and their staff, past and present, have provided the leadership that gives the public confidence in their institution and those we serve.

"I also want to shout out to Senator Graulty; he and I were elected in 1982 to the House of Representatives, served there, and supported him as he became a senator here on this floor. So, Representative Graulty, it's good to see you; it's good to see that your family's doing well. So, Mr. President, thank you very much."

Senator Nishihara acknowledged the presence of the Honorable John Waihee III, former Governor of the State of Hawai'i, in the gallery.

Senator Galuteria acknowledged the presence of former State Representative Blake Oshiro in the gallery.

At 11:51 a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:58 a.m.

#### HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 394 to 397) were read by the Clerk and were disposed of as follows:

Hse. Com. No. 394, transmitting H.C.R. No. 133, which was adopted by the House of Representatives on March 28, 2018, was placed on file.

By unanimous consent, H.C.R. No. 133, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE UNITED STATES CONGRESS TO SUPPORT AND FUND THE SCIENTIFIC STUDY OF FIREARMS VIOLENCE AND PREVENTION," was referred jointly to the Committee on Public Safety, Intergovernmental, and Military Affairs and the Committee on Judiciary.

Hse. Com. No. 395, transmitting H.C.R. No. 199, which was adopted by the House of Representatives on March 28, 2018, was placed on file.

By unanimous consent, H.C.R. No. 199, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE JUDICIARY TO STUDY AND MAKE RECOMMENDATIONS ON WAYS TO INCREASE GENDER EQUITY IN THE FILLING OF JUDICIAL VACANCIES," was referred jointly to the Committee on Judiciary and the Committee on Labor.

Hse. Com. No. 396, transmitting H.C.R. No. 220, which was adopted by the House of Representatives on March 28, 2018, was placed on file.

By unanimous consent, H.C.R. No. 220, entitled: "HOUSE CONCURRENT RESOLUTION URGING CONGRESS AND THE FEDERAL COMMUNICATIONS COMMISSION TO CODIFY A DEFINITION OF THE "PUBLIC INTEREST STANDARD" FOR THE BROADCASTING INDUSTRY," was referred jointly to the Committee on Public Safety, Intergovernmental, and Military Affairs and the Committee on Commerce, Consumer Protection, and Health.

Hse. Com. No. 397, informing the Senate that on March 28, 2018, the House disagreed to the amendments proposed by the Senate to the following House bills:

H.B. No. 1520, H.D. 2 (S.D. 1);  
H.B. No. 1605, H.D. 1 (S.D. 1);  
H.B. No. 1876, H.D. 1 (S.D. 1); and  
H.B. No. 2134, H.D. 1 (S.D. 1),

was placed on file.

#### STANDING COMMITTEE REPORTS

Senators Gabbard and Wakai, for the Committee on Agriculture and Environment and the Committee on Economic Development, Tourism, and Technology, presented a joint report (Stand. Com. Rep. No. 3340) recommending that S.C.R. No. 164, as amended in S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 3340 and S.C.R. No. 164, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE BOARD OF AGRICULTURE TO SUBMIT A RECOMMENDED DEFINITION OF "AGRICULTURAL HUB" OR "FOOD HUB" AND, IN COLLABORATION WITH THE AGRIBUSINESS DEVELOPMENT CORPORATION, IDENTIFY AREAS IN THE STATE THAT ARE POTENTIALLY SUITABLE TO BECOME AGRICULTURAL HUBS OR FOOD HUBS," was deferred until Monday, April 2, 2018.

Senators Gabbard and Wakai, for the Committee on Agriculture and Environment and the Committee on Economic Development, Tourism, and Technology, presented a joint report (Stand. Com. Rep. No. 3341) recommending that S.R. No. 123, as amended in S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 3341 and S.R. No. 123, S.D. 1, entitled: "SENATE RESOLUTION REQUESTING THE BOARD OF AGRICULTURE TO SUBMIT A RECOMMENDED DEFINITION OF "AGRICULTURAL HUB" OR "FOOD HUB" AND, IN COLLABORATION WITH THE AGRIBUSINESS DEVELOPMENT CORPORATION, IDENTIFY AREAS IN THE STATE THAT ARE POTENTIALLY SUITABLE TO BECOME AGRICULTURAL HUBS OR FOOD HUBS," was deferred until Monday, April 2, 2018.

Senator Baker, for the Committee on Commerce, Consumer Protection, and Health, presented a report (Stand. Com. Rep. No. 3342) recommending that S.C.R. No. 142 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 3342 and S.C.R. No. 142, entitled: "SENATE CONCURRENT RESOLUTION DESIGNATING THE FIRST WEEK OF DECEMBER AS CANCER SCREEN WEEK TO URGE THE PEOPLE OF HAWAII TO TALK WITH THEIR HEALTHCARE PROVIDERS ABOUT APPROPRIATE SCREENINGS FOR PREVENTION AND EARLY DETECTION OF CANCER," was deferred until Monday, April 2, 2018.

Senator Baker, for the Committee on Commerce, Consumer Protection, and Health, presented a report (Stand. Com. Rep. No. 3343) recommending that S.C.R. No. 75, as amended in S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 3343 and S.C.R. No. 75, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION URGING HAWAII'S CONGRESSIONAL DELEGATION TO ADVOCATE FOR LOCAL FRANCHISING AUTHORITIES TO RECEIVE GREATER CABLE TELEVISION REGULATING POWER AND FOR THE FEDERAL COMMUNICATIONS COMMISSION TO PROVIDE CLARITY AND ALLOW LOCAL FRANCHISING AUTHORITIES MORE DISCRETION REGARDING THE REGULATION OF CABLE OPERATORS AS IT RELATES TO PUBLIC,

EDUCATIONAL, AND GOVERNMENTAL ACCESS CHANNELS," was deferred until Monday, April 2, 2018.

Senators Nishihara and Taniguchi, for the Committee on Public Safety, Intergovernmental, and Military Affairs and the Committee on Judiciary, presented a joint report (Stand. Com. Rep. No. 3344) recommending that S.C.R. No. 116, as amended in S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 3344 and S.C.R. No. 116, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO SUBMIT A REPORT TO THE LEGISLATURE ON ALL CURRENT STATE GUN CONTROL LAWS, HOW THEY COMPARE WITH CURRENT FEDERAL REGULATIONS, DATA ON FIREARM DISCHARGES, AND DATA ON GUN CRIME IN HAWAII," was deferred until Monday, April 2, 2018.

Senators Nishihara and Taniguchi, for the Committee on Public Safety, Intergovernmental, and Military Affairs and the Committee on Judiciary, presented a joint report (Stand. Com. Rep. No. 3345) recommending that S.R. No. 73, as amended in S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 3345 and S.R. No. 73, S.D. 1, entitled: "SENATE RESOLUTION REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO SUBMIT A REPORT TO THE LEGISLATURE ON ALL CURRENT STATE GUN CONTROL LAWS, HOW THEY COMPARE WITH CURRENT FEDERAL REGULATIONS, DATA ON FIREARM DISCHARGES, AND DATA ON GUN CRIME IN HAWAII," was deferred until Monday, April 2, 2018.

Senators Kidani and Baker, for the Committee on Education and the Committee on Commerce, Consumer Protection, and Health, presented a joint report (Stand. Com. Rep. No. 3346) recommending that S.C.R. No. 69 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 3346 and S.C.R. No. 69, entitled: "SENATE CONCURRENT RESOLUTION URGING SCHOOL ADMINISTRATORS, TEACHERS, PARENTS, AND STUDENTS TO BE EDUCATED ABOUT THE POTENTIAL HEALTH IMPACTS OF HEAVY BACKPACKS AND TO TAKE PROACTIVE MEASURES TO AVOID INJURY," was deferred until Monday, April 2, 2018.

Senators Kidani and Baker, for the Committee on Education and the Committee on Commerce, Consumer Protection, and Health, presented a joint report (Stand. Com. Rep. No. 3347) recommending that S.R. No. 38 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 3347 and S.R. No. 38, entitled: "SENATE RESOLUTION URGING SCHOOL ADMINISTRATORS, TEACHERS, PARENTS, AND STUDENTS TO BE EDUCATED ABOUT THE POTENTIAL HEALTH IMPACTS OF HEAVY BACKPACKS AND TO TAKE PROACTIVE MEASURES TO AVOID INJURY," was deferred until Monday, April 2, 2018.

Senators Wakai and Taniguchi, for the Committee on Economic Development, Tourism, and Technology and the Committee on Judiciary, presented a joint report (Stand. Com. Rep. No. 3348) recommending that S.C.R. No. 121, as amended in S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 3348 and S.C.R. No. 121, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE HAWAII SISTER-STATE COMMITTEE AND DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM TO EVALUATE THE SISTER-STATE PROGRAM

AND MAKE RECOMMENDATIONS TO IMPROVE THE CAPACITY AND SUSTAINABILITY OF THE EFFORTS TO PROMOTE MUTUALLY BENEFICIAL INTERNATIONAL RELATIONSHIPS," was deferred until Monday, April 2, 2018.

Senators Wakai and Taniguchi, for the Committee on Economic Development, Tourism, and Technology and the Committee on Judiciary, presented a joint report (Stand. Com. Rep. No. 3349) recommending that S.R. No. 78, as amended in S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 3349 and S.R. No. 78, S.D. 1, entitled: "SENATE RESOLUTION REQUESTING THE HAWAII SISTER-STATE COMMITTEE AND DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM TO EVALUATE THE SISTER-STATE PROGRAM AND MAKE RECOMMENDATIONS TO IMPROVE THE CAPACITY AND SUSTAINABILITY OF THE EFFORTS TO PROMOTE MUTUALLY BENEFICIAL INTERNATIONAL RELATIONSHIPS," was deferred until Monday, April 2, 2018.

Senator Inouye, for the Committee on Transportation and Energy, presented a report (Stand. Com. Rep. No. 3350) recommending that the Senate advise and consent to the nomination of WILLIAM MIELCKE to the Board of Directors of the Natural Energy Laboratory of Hawai'i Authority, in accordance with Gov. Msg. No. 597.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 3350 and Gov. Msg. No. 597 was deferred until Monday, April 2, 2018.

#### ORDER OF THE DAY

#### AGREE/DISAGREE

#### MATTERS DEFERRED FROM WEDNESDAY, MARCH 28, 2018

S.B. No. 648, S.D. 1 (H.D. 1):

By unanimous consent, action on S.B. No. 648, S.D. 1 (H.D. 1), entitled: "A BILL FOR AN ACT RELATING TO TAXATION," was deferred until Monday, April 2, 2018.

S.B. No. 2146 (H.D. 1):

By unanimous consent, action on S.B. No. 2146 (H.D. 1), entitled: "A BILL FOR AN ACT RELATING TO PUBLICATION OF ELECTION NOTICES," was deferred until Monday, April 2, 2018.

S.B. No. 2174, S.D. 1 (H.D. 1):

By unanimous consent, action on S.B. No. 2174, S.D. 1 (H.D. 1), entitled: "A BILL FOR AN ACT RELATING TO MATERIAL WITNESS ORDERS," was deferred until Monday, April 2, 2018.

S.B. No. 2180, S.D. 1 (H.D. 1):

By unanimous consent, action on S.B. No. 2180, S.D. 1 (H.D. 1), entitled: "A BILL FOR AN ACT RELATING TO LESSER INCLUDED OFFENSES," was deferred until Monday, April 2, 2018.

S.B. No. 2992, S.D. 1 (H.D. 1):

By unanimous consent, action on S.B. No. 2992, S.D. 1 (H.D. 1), entitled: "A BILL FOR AN ACT RELATING TO CAMPAIGN FINANCE," was deferred until Monday, April 2, 2018.

#### ADVISE AND CONSENT

Stand. Com. Rep. No. 3252 (Gov. Msg. No. 638):

Senator Taniguchi moved that Stand. Com. Rep. No. 3252 be received and placed on file, seconded by Senator Rhoads and carried.

Senator Taniguchi then moved that the Senate advise and consent to the nomination of RUSSELL A. SUZUKI as Attorney General of the State of Hawai'i, term to expire at noon on December 3, 2018, seconded by Senator Rhoads.

Senator Taniguchi rose to speak in support of the nominee as follows:

"Russell Suzuki received his bachelor of arts degree from the University of Hawai'i at Mānoa and his doctorate of jurisprudence from Ohio State University. He currently serves as acting attorney general and, previous to that, has served as first deputy attorney general under attorneys general Douglas Chin, David Louie, and Mark Bennett. He has practiced as a public-sector attorney at the Department of the Attorney General for the past 36 years. Prior to his service at the Department of the Attorney General, he practiced criminal defense law, family law, business law, and military law at the Law Offices of Yoshiro Nakamura, who was my mentor when I first got into the Legislature in 1981. We received testimony submitted in strong support of Mr. Suzuki's nomination. Many testifiers observed that Mr. Suzuki's seasoned judgment, extensive knowledge, and professional demeanor will continue to be great assets to the Department of the Attorney General. I would ask my colleagues to support Russell A. Suzuki's nomination to Attorney General for the State of Hawai'i. Thank you."

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

Ayes, 25. Noes, none.

At this time, Senator Taniguchi introduced Attorney General Russell Suzuki, who was present in the gallery with his family, including his brother Stanley Suzuki; sisters Patricia and Deborah Suzuki; nephew Bryce Suzuki; aunt Hattie Hirata; cousin Linda Yanagihara and her daughter Alicia; cousin Susan Aoki; cousin Barbara Fukushima and her son Dennis Fukushima, Jr.; as well as staff members of the Department of the Attorney General.

At 12:02 p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:09 p.m.

#### ADOPTION OF RESOLUTIONS

#### MATTERS DEFERRED FROM WEDNESDAY, MARCH 28, 2018

Stand. Com. Rep. No. 3247 (S.C.R. No. 126):

On motion by Senator Espero, seconded by Senator English and carried, the report of the Committee was adopted and S.C.R. No. 126, entitled: "SENATE CONCURRENT RESOLUTION URGING THE HONOLULU POLICE DEPARTMENT TO OPEN A POLICE STATION ON OAHU'S NORTH SHORE," was adopted.

Stand. Com. Rep. No. 3248 (S.R. No. 85):

On motion by Senator Espero, seconded by Senator English and carried, the report of the Committee was adopted and S.R. No. 85, entitled: "SENATE RESOLUTION URGING THE HONOLULU POLICE DEPARTMENT TO OPEN A POLICE STATION ON OAHU'S NORTH SHORE," was adopted.

Stand. Com. Rep. No. 3249 (S.C.R. No. 122, S.D. 1):

On motion by Senator Espero, seconded by Senator English and carried, the report of the Committee was adopted and

S.C.R. No. 122, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING AN INCREASED HONOLULU POLICE DEPARTMENT PRESENCE ON OAHU'S NORTH SHORE," was adopted.

Stand. Com. Rep. No. 3250 (S.R. No. 81, S.D. 1):

On motion by Senator Espero, seconded by Senator English and carried, the report of the Committee was adopted and S.R. No. 81, S.D. 1, entitled: "SENATE RESOLUTION REQUESTING AN INCREASED HONOLULU POLICE DEPARTMENT PRESENCE ON OAHU'S NORTH SHORE," was adopted.

#### THIRD READING

Stand. Com. Rep. No. 3251 (H.B. No. 2739, H.D. 1):

Senator Taniguchi moved that Stand. Com. Rep. No. 3251 be adopted and H.B. No. 2739, H.D. 1, having been read throughout, pass Third Reading, seconded by Senator Rhoads.

The Chair welcomed Senator Harimoto after his absence, and allowed him to address the members of the Senate from his seat, should he need to remain seated during his remarks.

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

"So, one year ago, I stood here to speak on a similar bill. I stand here once again today to speak in opposition to this bill. Last year, I spoke about my personal experience with pancreatic cancer, one of the most deadly forms of cancer, in which most people die within weeks or months of being diagnosed. I faced an almost certain near-term death, if not from complicated surgery with a high mortality rate, then from the aggressive cancer itself. My faith in God, prayers, and a sense of hope got me through this, and after a long and painful recovery, through eight months of chemo and radiation, I was in remission for the past year. It was nothing short of a miracle. Because of this personal experience, I feel so strongly that we must always have hope and never give up.

"This bill will likely pass by an overwhelming margin, so I would just like to share what's in my heart. While I respect all views and opinions, this is a highly personal, emotional, and polarizing issue with apparently no middle ground. People are so passionate on both sides. For me, I just cannot vote to create an environment of hopelessness and allow physicians to assist in causing death. Polls show that I am in the minority on this issue, but, as we learned from the last presidential election, polls are not necessarily reflective of the will of the people. They're only snapshots in time, and it depends on who you ask, what they understand about the issue, and what question you ask. I point to the first poll that a lobbyist showed me last year. It showed that 88 percent of the people supported assisted suicide. But consider the question that was asked: 'In the event I am diagnosed with a terminal illness, I want to be able to manage my own medication to lessen suffering and to preserve my dignity and be in control of my own pain as I see fit to bring about peaceful death.' If someone asked me this question, I would also say yes. Who would be against 'to lessen suffering,' 'preserve my dignity,' and 'peaceful death'? The question does not state that you would end your own life. And I wonder why supporters have used various names for this: physician-assisted suicide, aid in dying, death with dignity, compassionate choice, and now, this year, Our Choice. Euphemisms do not change what it is: It is physician-assisted suicide.

"There are so many concerns with this bill. These concerns have been well-documented in hundreds, perhaps thousands, of testimonies submitted in both House and Senate committees this year and last year. Concerns are raised by physicians, healthcare providers, individuals, as well as the faith community. Some

concerns have not been fully addressed and may result in significant issues in the future. While some concerns may be deemed opinions, other concerns are based on facts.

“For example, Merriam-Webster’s dictionary defines suicide as ‘the act or an instance of taking one’s own life voluntarily and intentionally.’ The fact of the matter is that even if you have a terminal illness, willfully ingesting drugs to end one’s own life is the very definition of suicide. How can we change the meaning of a word so ending one’s own life is not suicide?”

“Another example is that this bill would require death certificates to state that the disease that the person has caused the death. If you end your own life, that is the very definition of suicide. This bill would require physicians to not truthfully state that the real cause of death, on a government document, is in fact suicide.

“A final example of fact is that suicide rates have been increasing and it is a concern of the public and government. Consider the following: A news account reported that, according to recent reports, the number of suicides among teens and adults is rising. The *New York Times* reported that suicide rate had reached a 30-year high. A report in 2011 stated that the number two happiest state is Hawai‘i, which comes in fifth for suicides. According to the *Garden Island*, in September 2017, ‘Kauai is suffering. A 2017 suicide epidemic is increasingly worrying police and service organizations with the death toll so far this year already nearly double the number reported in all of 2016 and far higher than any year since at least 2012.’ *U.S. News & World Report* in December 2017 reported the following: ‘Hawaii legislators are grappling with how to prevent suicides, the leading cause of fatal injuries in the state. The *Honolulu Star-Advertiser* reports one person dies every two days by suicide in Hawai‘i. The state Department of Health statistics show there was an average of 186 suicides a year from 2012 to 2016, compared to 120 in the early 2000s.’ It goes on to say that ‘the Prevent Suicide Hawaii Task Force presented a plan to reduce suicides in Hawaii by at least 25 percent by 2025.’ I find this bill to allow physician-assisted suicide to be contrary to the public policy goal of reducing the number of suicides. By legalizing physician-assisted suicide, what message are we sending to the people, especially impressionable youth? By the time we study the impact of this law, after enacted, it may be too late for far too many of our youth.

“Some people argue that I should leave my religion out of it. These people fail to understand that my faith forms the very foundation of who I am. It gives me my moral compass for right and wrong; it guides me to be transparent, to operate with honor and integrity; it gives me clarity to see through the fog and understand what I must do; it gives me the courage to stand alone, if necessary, for what I believe in; it gives me compassion toward others and the ability to love, respect, and forgive everyone; and it allows me to get through the toughest of challenges with deep faith and a sense of hope that shines its light brightly when there is darkness. Should I really be required to check my religion at the door? This is not even possible: My faith is the essence of who I am. The bigger public policy question we should be considering is this: What kind of society do we want for our children and our grandchildren? I want a society for them that is filled with faith, hope, and love, where life is regarded as precious and we have compassionate end-of-life options through good palliative and hospice care. We should not be creating laws to allow physicians to be complicit in causing death. Instead, we should be making laws to give people a sense of hope.

“And, finally, I’d like to share that I was not supposed to be here today. Last week, I was diagnosed with cancer in my lung, and I was scheduled to begin chemo yesterday, which meant that I would be out of commission for several days and I wouldn’t be here. But when I went to my chemo session

yesterday, I was informed that my health insurance plan had not approved my chemo yet, so, Senator Baker, maybe I need to chat with you about that. My doctor’s staff worked to obtain approval while I waited all afternoon. Finally, at the end of the day, they said, ‘Hopefully tomorrow.’ So, after this session ends, I will hurry out to hopefully get my chemo treatment, but I thank God for giving me this unexpected opportunity to be here today to speak on this bill and to cast my ‘no’ vote.

“In closing, I pray that, should this bill become law, that we can all put our differences aside and come together to move Hawai‘i forward, toward a shared vision of the future for the sake of our children and our grandchildren. I leave you with these words that bring me so much comfort in regards to this bill and also for my second battle with cancer that I’m now facing: Jeremiah 29:11 says, ‘For I know the plans I have for you . . . plans to prosper you and not harm you, plans to give you hope and a future.’ Thank you.”

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

“Colleagues, please bear with me. I rise in support with very serious reservations. I give this brief set of comments with a great conflict in my heart, Mr. President. I am a physician and, as a physician, I’m sworn to do no harm. But one might harm a patient by not relieving their suffering. Thus, the true conflict: to stop suffering but to still do harm, or to do harm while ending someone’s life while ending that suffering? Without a doubt, this is the most complicated issue that we have ever had before us, so there’s no easy answer. However, if a patient with bone cancer comes to the hospital when I’m on duty, and they’ve gone through palliative care and chemotherapy, and they’ve had all the treatment they can, and they’ve seen a psychiatrist and they’re not depressed, but they still have severe pain, I see them as a human being, not as a doctor, and I can’t ignore that suffering. I can’t ignore that pain; I can’t look the other way.

“So I’ll vote in favor of this bill with deep reservations. This bill has flaws, colleagues, and it has important safeguards. Of all the bills, this is the one bill we shouldn’t still pass with flaws, we should not race to pass – we have 30 days left in this session. Though it may seem painful politically, we should still be debating this measure to get all of the solutions in place if we’re going to pass a bill of this magnitude.

“A couple of concerns: As noted by my dear colleague, a physician should never be asked to misrepresent a cause of death. It sets the most dangerous precedent. If I was asked to provide a prescription to end someone’s life, I would not misrepresent the cause of death. That would not be ethical. This bill should do more to ensure that we pursue hospice care and palliative care, and some of the champions of this bill have also championed those causes, and they should be commended for that. Finally, the healthcare providers who prescribe end-of-life medication should, in this bill, have been mandated to have formal training in palliative care or psychiatric care or both, because I, for instance, would not appropriately prescribe the end-of-life medications; I don’t have adequate training. I’ve been well-trained as a family doctor and as an emergency room doctor, but I would want a physician who had had that training to know best how to do this, if they were going to be asked to end someone’s life. That should be in the bill; that must be in the bill. Finally, provisions of this bill don’t help some of those who will still be suffering. My aunt had Lou Gehrig’s disease. I took care of her when I was a resident back home: I came on call one night as a second-year resident, and there she was, in the intensive care unit, unable to move, unable to speak. She was locked in; she couldn’t move; she would not have been able to avail herself of end-of-life, though she was suffering. The same can be said of someone who’s had a catastrophic stroke, has locked-in syndrome. I take care of some individuals who have been alive for 10 or 12 years; they can’t move anything

except blink their eyes. If we had more time – though it might not please those who are opposed to physician-assisted suicide – those very individuals might really want to have the capacity to end their life because they’re suffering so severely. But with a month still left on the clock, because lobbying has pushed us to a quick end of this bill, we don’t have that capacity. People with severe MS also are not at the end of life; they’re not addressed in this bill. They can’t avail themselves if they need it. So there are flaws in the measure, and we often say no piece of legislation is perfect, but the one piece of legislation, respectfully, that must be perfect is this one, if we’re going to pass it.

“So, you ask, why would I vote in favor of it? Well, at the end of the day, if we can mitigate the severe suffering of one individual that has failed palliative care, that has failed all of the care they can get to alleviate their depression, that has not been able to stop their suffering, and the families have been there for them to make sure we don’t make a mistake as healthcare providers, then we should do all we can to stop their suffering. That’s what we have to do for our loved ones, and I do personally pray that we don’t make any mistakes and that we do alleviate suffering with the passage of this bill. But please do search your hearts: It would be better to make it perfect before we pass this bill. Thank you, colleagues.”

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

“This bill is all about freedom. Freedom to live one’s life as we choose is the essence of this country’s laws. The founders left their homes and friends in Europe, mostly fleeing from religion, seeking the freedom to live life without rules imposed by someone else’s interpretation of religion. There are other examples of society evolving on what some would call religious issues. All of the following were once outlawed in our country based on interpretations of a Bible: working on Sundays; selling alcohol on Sunday; the right to marry if you’re gay or divorced; the right to divorce; women’s rights, including voting, freedom to control their own bodies; the right to vote for women and people of color; interracial marriage; the right to not be owned as a slave. All were laws based on someone’s interpretation of religion. Did the Bible change or did society change? As Martin Luther King Jr. said, ‘The arc of justice is long and it bends toward freedom.’ Religions rightfully carry great respect in our society but must not dictate our laws. Why? Because interpretations differ and change over time and, most importantly, I may not interpret the Bible the same as others. I may read a different Bible; I may choose to not follow a Bible. That right is enshrined in our Constitution. Thus, our laws must be based on reason, society’s ever-changing norms, and guided always by the principle that Americans desire and deserve freedom. Whenever one’s freedom does not impinge on another’s rights, that freedom is the essence of our laws. If you don’t believe in it, don’t do it, but there is no reason to deny to others the freedom to live – and to die – as we choose. Thank you.”

Senator Rhoads requested that remarks in support of the measure be entered into the Journal, and the Chair so ordered.

The Chair having so ordered, Senator Rhoads’s remarks read as follows:

“Mr. President, in support of House Bill 2739, the medical aid in dying bill. I am pleased that after decades of debate on this sensitive issue, we are on the verge of enacting a bill that will allow those who wish to end their own lives because of a terminal illness to do so.

“When you are healthy and active, it is difficult to contemplate a time when you might not want to continue your life. Unfortunately, for many injury or illness can cause

unbearable pain. If the prognosis is such that you know beyond a reasonable doubt that all that is left to you is suffering and unending trips to the hospital or the doctor, this bill gives you the option to end your life on your own terms.

“No one is required to take advantage of the provisions of HB 2739. Anyone who tries to force or trick someone into doing so commits a criminal act. No doctor or healthcare professional is forced to participate either. Utilizing HB 2739 is entirely voluntary. In addition, HB 2739 has more safeguards than any other bill in the country. Furthermore, if you ask for the prescription authorized under this bill, you can always change your mind and not use it.

“Last year I introduced Senate Bill 1129, which is very similar to HB 2739. It passed the Senate and stalled in the House. While I hope I never have to use this bill, I am proud to have played a significant role in finally getting a medical aid in dying passed after all these years.

“Mahalo.”

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

“You’ve seen me get up here to speak when I feel passionate about an issue. It’s easy when you know the answer; this one has been wearing me out. Everybody seems to have it easy: ‘Oh, yeah, this is an easy question! Let somebody decide for themselves!’ Other people come and say, ‘No, I work in a cancer center, and the palliative care is there, and there’s always a miracle; there’s chemotherapy.’ Great words from a great friend over here, who spoke about his personal journey. So I have, for the last two years, waffled back and forth. My wife advocates, you know, go for it, do it; it’s there; the public seems to want it. But my inner compass, my heart, says we’re crossing a very profound threshold here: Now we’re supporting death one way or another.

“I think the bill was much worse last year because the provisions that were put in this year are a step in the right direction. As the senator from the Big Island mentioned, the death certificate is a problem. It’s ridiculous that we’re going to falsify the cause of death when we, this body, could probably pass legislation that says that insurance – if the real question about falsifying the death certificate is the insurance claims, I don’t know why we can’t pass a law that says anybody doing insurance in the state would have to honor this procedure. So why we don’t do that, I don’t know. So we say, ‘Oh, we’ll just say, for the dignity of the person ...’ I think we can all accept and we’re at the point where we are now a state-endorsed procedure. That’s the other thing that’s interesting: Why do we need to endorse it as the state? Why is it so relevant?

“But I think we are there; I think people understand it; people have the compassion for the dying and the people who are in pain and they want to end it. And I’m not opposed to that; I’ve never been opposed to that ultimate decision, but I have suffered with this decision on how we’re going about implementing the program. The pills that are going to be distributed – 200 Seconal pills – they’re going out, and we hope somebody brings them back in if they’re not used. We hope that, at the time of consumption of this ‘medicine,’ that the person is still of sound mind and body and not being unduly influenced. We have cases that are terrible of elder abuse and chronic abuse of people that we’re charged with taking care of, so I’m worried that we run the risk of potentially pushing somebody, encouraging somebody, ‘Come on, end it,’ you know, ‘let’s go, get it over with,’ and I think we’ve seen that. People documented cases on the mainland where there have been nurses who thought it was their responsibility to end the suffering, and I’m not saying that’s going to happen here, but these are the thoughts that I’m worried with.

"I have talked, again, with people on both sides of this and they both seem to know the answer, and I have tried diligently to come to what is the correct place. And we all know that this is a personal vote and you have to vote your conscience, but what does my conscience tell me? At this point, it appears that my conscience tells me that, okay, this bill is going forward; we're not making somebody do it, but, for the concerns I've just described, Mr. President, this has been the hardest single issue I've ever had to deal with, and I applaud the members for being respectful and deliberative in the process. But I think we can make more improvements on it next year, and I certainly hope we're not coming back next year, trying to strip away some of the protections. So, thank you, Mr. President, for allowing me to speak."

Senator Gabbard rose to speak in strong opposition to the measure as follows:

"Although the conversation about medical aid in dying has been going on in Hawai'i for over 20 years, I sincerely believe that it's premature to end that conversation now by passing the measure that's in front of us today. Much has been said about the so-called protections in the bill that will prevent abuse; however, I'd like to offer some points to consider as we make our decision on this legislation.

"Number one: Passing this legislation opens the door to normalizing other types of suicide, and appropriate safeguards aren't in place. You may know that the Netherlands was the first country to legalize euthanasia in 2002. They've now proposed extending euthanasia to old, healthy people who feel they have 'completed their lives.' Belgium also became the first country in 2014 to expand its euthanasia law by explicitly allowing it for children. Ponder that for a moment. And of course, our mind says, 'Oh, that could never happen in the U.S.!' The fact is, there are very real concerns for our kūpuna and the disabled, who may be made to feel that they're a burden on society and their family members because of the passage of this bill. Now, you might scoff and say that, well, that's not what's being proposed in the bill before us, which doesn't allow these things and has plenty of good safeguards against abuse. As we know, this bill we're considering is based on the Oregon model. However, in my research, I came across an alarming recent exchange between a Swedish citizen investigator and Mr. Craig New, a research analyst for the Oregon Health Authority, about their Death with Dignity Act. And what came out in their written correspondence is that Oregon's six-months-to-live terminal disease rule is interpreted as their life expectancy if the disease were allowed to take its course absent further treatment. And what this means is that these terminally ill patients can obtain the life-ending drugs even if their lives could be prolonged for years, or even cured, with proper medical treatment. The Oregon law also doesn't compel patients to exhaust all treatment options first or continue their current treatment. Additionally, if a doctor in Oregon suggests a treatment that would possibly prolong life or cure the patient and the health insurance company won't provide the coverage, then that person is still eligible for the lethal drugs. If H.B. 2739 passes, we would be doing the same here in Hawai'i. Additionally, there have been statements by the bill's advocates that there haven't been any cases of abuse, but in Oregon, keep in mind, they don't keep their medical records. And here in this bill, we have a clause on page 18 and 19, and I quote, 'Information collected pursuant to this section by the department shall not be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding.' So the question is, how would the abuse ever come to light?

"Second, this bill will send mixed messages to our youth. A September 26, 2017 *Star-Advertiser* article entitled 'Suicide prevention training offered to Oahu students' pointed out that

suicide was the leading cause of death among youth ages 10 to 19 in Hawai'i and efforts are being made to reduce suicide prevalence. So, the question is, why are we telling our youth that suicide is a respectable, government-sanctioned alternative? Queen's Health Systems pointed out in their testimony on this bill that their physicians are concerned with the 'social contagion effect.' They noted that a study published in the *Southern Medical Journal* found that legalizing physician-assisted suicide led to a 6.3 increase in total suicides relative to other states. The effect was larger in individuals over 65, with a 14.5 increase in suicides.

"Point number three: And then there's the death certificate – it's already been discussed. We teach our children to be honest and to tell the truth, and we're always talking about honesty and transparency in government, yet this bill doesn't tell the truth because on page 13, lines 12 and 13, it states that, and I quote, 'the death certificate shall list the terminal disease as the immediate cause of death.' The immediate cause of death. I'm sorry, I just don't get this. Obviously, the immediate cause of death is the life-ending drugs, so, to date, I have not heard a plausible explanation as to why this falsehood is able to stand in this legislation. Queen's Health Systems, in their testimony, said, in a very diplomatic way, and I quote, 'We do not support legislating physicians to complete the official death certificate in any way other than the most accurate manner.'

"And number four: It's all about choice. I've heard repeatedly that it's all about choice; people should have that choice. The reality is that people already have the choice. You may not recall, but last year, I told you about Louie, a constituent that I ran into at Costco who was angry that this issue was taking up so much time and energy. He had pancreatic cancer, stage 4, and he said no one was denying him the choice to end his life. He had already gone online, did the research, purchased the Seconal, and when it was time, his family was going to throw him a going-away party, and he was going to go into the bedroom, quietly take the drugs, and leave his body. So where's the denial of choice? Why are we insisting that government be involved in this deeply personal decision?

"And, finally, you may have noticed the half-page ad that was in the *Star-Advertiser* on March 21. It was paid for by the Hawai'i Physicians for Compassionate Care. A group of over 130 Hawai'i doctors signed their names. And the bold headline says, 'Shouldn't Doctors Have A Say?' The first subheadline:

**Our Professional Obligation**

As doctors, we tend to shy away from politics. However, when elected officials dictate how we should practice medicine, we feel compelled to respond.

And when the lives of our patients are at stake, it is our professional obligation and ethical responsibility to interject.

The second subheadline:

**Rigorous Safeguards?**

Legislators have told our patients that current physician-assisted suicide and its "rigorous safeguards will be the strongest of any state in the nation and will protect patients and their loved ones from any potential abuse." Based on our combined years of clinical and professional experience, we respectfully disagree.

And the last subheadline:

**More Discussion Needed**

Respected physicians pleaded with legislators last session to mandate education on hospice and palliative care for all physicians. Sadly, that request was not taken seriously. As licensed practicing physicians, we believe this matter requires more thoughtful discussion as well as a thorough legal analysis by attorneys.

“So I strongly agree with that last sentence: ‘As licensed practicing physicians, we believe this matter requires more thoughtful discussion as well as a thorough legal analysis by attorneys.’ Colleagues, I urge you to pause and consider the long-range implications and very real negative consequences of the passage of this bill, such as pharmaceutical companies jacking up prices of the pills, which has already happened, and the inability to prove wrongful death suits. For all these reasons, I ask you to join me in voting no or, at the very least, recommit this measure to JDC for further deliberation. Mahalo.”

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

“Mr. President, this has been a struggle for me, and I think it’s up to the very minute that it’s a struggle. I voted for it straight in committee to come out. In 2002, this measure came up, and I struggled with it then. And while I supported it then, I felt the bill at the time did not have enough safeguards in it, and I voted no – one of three of us who voted no on the measure. The bill did not pass then, and maybe, in hindsight, it was right that it didn’t pass then, because there were not enough safeguards, and today, this bill has a lot more safeguards in it than it had at that time. But as pointed out, it’s not a perfect bill. We could do more, and I’m hoping that we do more. But in the meantime, people are suffering – we have seen our family members; we have been caregivers; we see our colleagues. It’s not an easy decision; it is a personal one for all of us. So I think, before you judge, people should have that right to decide. We’re not forcing anybody. While I voted no back then, I do vote yes today, with reservations, but it is ‘yes.’ Thank you.”

Senator Nishihara requested that remarks in support of the measure be entered into the Journal, and the Chair so ordered.

The Chair having so ordered, Senator Nishihara’s remarks read as follows:

“Mr. President and members, I rise to speak in favor of H.B. 2739, H.D.1, the Our Care, Our Choice bill.

“This bill, as we all know, allows mentally competent residents who are at least 18 years old and have been given six months or less to live to request a life-ending prescription. Licensed physicians would prescribe medication to be self-administered by the patient. The requirements include submittal of two verbal requests within a minimum of 20 days apart and one written request to their attending physician for a prescription. The written request would have to be signed by two witnesses who can attest that the patient is of sound mind and is acting voluntarily. One of the witnesses cannot be a relative; the other cannot be one who stands to inherit anything upon the patient’s death. Two health care providers need to confirm a patient’s diagnosis, prognosis, competence, and that the request is voluntary. Before any medication is prescribed, a patient would need to receive mandatory counseling from a psychiatrist, psychologist, or clinical social worker. The bill further calls for criminal penalties for tampering with a patient’s prescription request or coercing a patient to request a prescription. Finally, the patient has the right to rescind a request at any time, regardless of their mental state.

“H.B. 2739 is thoughtful, carefully worded, and compassionate. Is it a perfect bill that all can agree on? The answer is no. There are some who would question the morality, religious ethics, physician’s oath to do no harm, safeguards, and even the removal of hope. Some say that this is a rush to judge and institute a law that on its face endorses suicide. The supporters of this bill – and there are many here and outside of this chamber – take issue with that. This is not an easily rendered decision for all of us. The issue of allowing individuals the right to control their end-of-life decisions requires all of us to step outside of our own biases and moral standards. We need

to consider the patient’s decision to take the final and ultimately truly personal choice of how one lives and, at the end, how one’s life should end. Many of us will probably never have to walk that final path; illness and untimely death will see to that. Loved ones will mourn their passing. The phrase, ‘To finally be at peace,’ is expressed frequently and with the hope that it will bring comfort to the living. This bill allows the patient the choice to reach the finality of that peace. I ask my colleagues to vote in favor of this bill that offers a most important element of selecting and making that choice. Thank you.”

The Chair then remarked:

“Before calling the vote, I would briefly say to Senator Rhoads: Thank you very much for the homework you put in before session last year and the vehicle that the Senate moved to Senators Baker and Taniguchi, the committee chairs, who put in the work and the effort last year and took amendments from the testimony and put forward to the public a document, so that we could debate, discuss, and work to get to the bill that we would be comfortable in voting. I would like to acknowledge all of the work you put in last year that seems to have been left out of the conversation this year. And with all of those efforts, I think that it has helped get us to a better place with the bill we’re going to be voting on today, so thank you for your efforts. Thank you to your committee members, who assisted you, and, most importantly, thank you to the public, who has been engaged with us every step of the way on this issue.”

The motion was put by the Chair and carried, Stand. Com. Rep. No. 3251 was adopted and H.B. No. 2739, H.D. 1, entitled: “A BILL FOR AN ACT RELATING TO HEALTH,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23; Ayes with Reservations (Green, Kahele, Kim, Riviere). Noes, 2 (Gabbard, Harimoto).

#### RE-REFERRAL OF A HOUSE BILL

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

H.B. No.: Re-referred to:  
H.B. No. 2582, Committee on Ways and Means  
H.D. 1

#### RE-REFERRAL OF A SENATE CONCURRENT RESOLUTION

The Chair re-referred the following Senate concurrent resolution that was offered:

S.C.R. No.: Re-referred to:  
S.C.R. No. 193 Committee on Transportation and Energy

#### RE-REFERRAL OF A SENATE RESOLUTION

The Chair re-referred the following Senate resolution that was offered:

S.R. No.: Re-referred to:  
S.R. No. 133 Committee on Transportation and Energy

Senator Baker thanked the members, the Office of the Governor, and the Legislative Reference Bureau for their Easter basket donations, and as well as State Representative Lauren K. Matsumoto for leading the donation effort.

Senator Ihara announced that the State Ethics Commission had invited the members to a luncheon to mark its fiftieth anniversary.

#### ADJOURNMENT

At 12:48 p.m., on motion by Senator Espero, seconded by Senator English and carried, the Senate adjourned until 11:30 a.m., Monday, April 2, 2018.