

**HAWAII STATE  
HOUSE OF REPRESENTATIVES**

**SPECIAL SESSION OF 2017**

***ROUGH DRAFT  
JOURNAL***

**FOURTH DAY  
AUGUST 31, 2017**

**OFFICE OF THE CHIEF CLERK**

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## FOURTH DAY

Thursday, August 31, 2017

The House of Representatives of the Twenty-Ninth Legislature of the State of Hawaii, Special Session of 2017, convened at 10:01 o'clock a.m., with Speaker Saiki presiding.

The invocation was delivered by Mr. Vandeth "Ali" Sek of the Office of Representative Cedric Asuega Gates, after which the Roll was called showing all Members present with the exception of Representatives Har, Hashem, Matsumoto, McDermott, Nishimoto and Oshiro, who were excused.

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

## ORDER OF THE DAY

## REPORTS OF STANDING COMMITTEES

Representatives Johanson and Luke, for the Committee on Labor & Public Employment and the Committee on Finance, presented a report (Stand. Com. Rep. No. 1) recommending that S.B. No. 2 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Evans, seconded by Representative Morikawa and carried, the report of the Committees was adopted and S.B. No. 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYMENT COST ITEMS," passed Second Reading and was placed on the calendar for Third Reading, with Representatives Har, Hashem, Matsumoto, McDermott and Nishimoto being excused.

Representatives Johanson and Luke, for the Committee on Labor & Public Employment and the Committee on Finance, presented a report (Stand. Com. Rep. No. 2) recommending that S.B. No. 3 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Evans, seconded by Representative Morikawa and carried, the report of the Committees was adopted and S.B. No. 3, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYMENT," passed Second Reading and was placed on the calendar for Third Reading, with Representatives Har, Hashem, Matsumoto, McDermott and Nishimoto being excused.

Representatives Aquino and Luke, for the Committee on Transportation and the Committee on Finance, presented a report (Stand. Com. Rep. No. 3) recommending that S.B. No. 4 pass Second Reading and be placed on the calendar for Third Reading.

Representative Evans moved that the report of the Committees be adopted, and that S.B. No. 4 pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Morikawa.

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

"Thank you, Mr. Speaker. Could you record a no vote for me on this measure? Thank you. I realize this is the second reading on this measure, but since this bill is in its final form, I would like to speak today and hopefully be done with this issue.

"I would first like to start by thanking the neighbor island residents for their generosity and wisdom.

"Mr. Speaker, my objection to this measure is that this is not the best alternative available to us. It does not give us the flexibility that a 10-year extension of the general excise tax surcharge would give, an option that will take effect four years after the completion of the project. That's the option I would have preferred.

"But before us today, we have a bill that not only will escalate the cost of the project by adding layers of bureaucracy, but will force the city to raise real property taxes on the residents of Honolulu.

"Mr. Speaker, I am not as generous as our neighbor island residents, but perhaps wiser.

"So, what we can do today, we can kill this bill. The city has enough money to finish the rail to Middle Street. Then we can take pause, and have the State of Hawaii, with its infinite wisdom and ability, build the rest of the rail project, hopefully to the University, under budget and ahead of schedule. That is the best alternative we have before us today.

"Mr. Speaker, I would like to enter comments into the Journal. Thank you."

Representative Choy's written remarks are as follows:

"Mr. Speaker, I have been a rail supporter from its inception. I also support a permanent sole source of funding for mass transit system for Honolulu.

"I object to the measure before us, SB 4, for the following reasons:

1. This measure is not the best alternative available to us today. A 10-year extension of the City and County of Honolulu surcharge starting in 2028 is a better choice. I would like to note that this extension of the one-half percent tax will start four years after the estimated completion of the rail project in 2024.
2. The inclusion of an increase of the transient accommodations tax may limit the county's ability to increase real property taxes and fees on hotels and resort properties. These county assessments go directly to the county's roads, infrastructure and other county services. To handcuff the counties will be detrimental to our neighbor island residents.
3. There are too many variables and assumptions in SB 4. Therefore, it is impossible to assume any kind of accuracy for funding. There are interest assumptions, discount rate assumptions, cost assumptions, bond issuance assumptions, and others. These assumptions only add to the complexity of the project and inaccuracy as to the cost of the project. Speaking as an accountant, in order to come up with the best alternative, one should eliminate as many assumptions as possible.
4. This bill does nothing to help build the rail more efficiently and economically. It adds layers of bureaucracy to a very difficult project.

"The Honolulu rail project is the biggest public works project in the history of Hawaii. For visionaries it is a change for the better. For naysayers it is just a huge cost item. I am a visionary and know that Honolulu of tomorrow will look very different than what it looks like today. Tomorrow there will be different people, who think differently, even different methods of governing. This project is only a minor step in the direction of change. The conclusions reached during this session will be judged by history. It can be the best thing we ever did, or the worst. Let's see if legislators can govern without fear of retribution. Let's see if public policy can overcome politics. Let's see if we can, as a society, work together on a very difficult project that challenges our imagination and abilities; let's move forward together.

"For these reasons I stand in opposition to this measure."

Representative Quinlan rose and asked that the Clerk record a no vote for him, and the Chair "so ordered."

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

"Mr. Speaker, I would like to announce my no vote on the underlying bill, and I have a couple of things to add to what our CPA colleague has added, in opposition to the measure.

"We are at a point, Mr. Speaker, where we have the opportunity to decline to be enablers for the city and for the mayor. I don't want to enable the city to continue with its project that has just gone out of control. And I agree with my colleague across the aisle that the city has enough money right now to build to Middle Street. And as they are doing that, they can step back and take a look at how the project is designed, and take a look at, isn't there a better way to do this?"

"I'd like to, at this point, Mr. Speaker, have the opportunity to put into the Journal the brief analysis by Salvage the Rail, which is talking about bringing it down to street level from Middle Street, and running it similar to the way that Portland, Oregon does, where it becomes a very user-friendly system, right on the street level. And if I may have permission to put that in the Journal, please. Thank you.

"Mr. Speaker, we have the opportunity to force the city, the councilmembers, the Mayor and HART to rethink what it is doing. And there are two letters that I have from the Federal Highway Administration that indicate this is absolutely okay. One is 2016, the second is 2017, this year, that it's okay to do that, there's no prohibition on that. The Mayor has continued to ask for all of the money to do it exactly the way he wants to do it, which we know has had excessive cost overruns.

"I would like to thank the Chair of Finance for putting some protections into this bill to say we have to have a forensic audit, but I would like it to go even further than that. I'd like to say, stop at Middle Street, city, mayor, HART, rethink what you're doing and look at a better way to bring that system.

"It's interesting, because in the high-tech era that we're in and how things move so quickly, we end up with companies like Uber and Lyft, and I'm sure there's going to be a multitude of others, that are really creating difference within transportation. And those systems create something that is on demand, taking you where you want at a relatively reasonable price. It's going to have an impact upon someone that would be possibly using rail but won't choose to do that because it doesn't meet their needs.

"All of those things have to be relooked at. But if you bring this sucker down at Middle Street and then you move on from there thinking what's going to be the best way, I think that the at-grade has great possibilities, it has possibilities of going all the way into Waikiki, all the way up to UH, and being a system that other riders will hop on and hop off, because it could suit their needs.

"But I do not want to go ahead and give the Mayor the open checkbook that he continues to ask for. We knew him when he was here, in this building. And I know I went head-to-head on homeless issues with him, and we had quite a battle in here where he said homeless was not an emergency situation. Well, he changed his mind on that. Let's not give him the open checkbook, and let's get him to change his mind again on this, at what kind of a system really will work for Hawaii.

"I don't want to be the enablers that someday our children will say, how did you let this monstrosity go through Chinatown and across our waterfront, and over to a shopping center? How'd you do that? Why did you destroy Hawaii, our Honolulu, our classic, wonderful, historic district? I don't want to be an enabler, and so I'm voting no. Thank you."

Representative Thielen submitted the following:

[Note: This space intentionally left blank.]



#### MYTHS AND FACTS ABOUT STREET LEVEL RAIL IN HONOLULU

Some of the things HART and others are asserting about street level rail in Honolulu are wildly inaccurate. Running street level rail from Middle Street through downtown can be done with the \$6.8 Billion in existing funding. There is no need for a GET surcharge extension to complete rail. Rail can be completed 4 years faster, with far less construction impacts, and lower operating and maintenance costs in the future if the elevated route connects to street level rail for the final section through downtown. This is not wishful thinking. It is based on current data from the 38 other cities in the U.S. using light rail.

*Myth: Street level rail would require the digging of a 4-8 foot trench 30 feet wide and huge construction impacts downtown.*

**Fact:** To lay a set of tracks construction would be 14 inches deep by 8 feet wide, which is the same depth as normal road construction. This would not require purchase of any additional land. Existing streets could be used. Because these streets have already been excavated, the issue of new archeological finds is not applicable. Street level rail stations are not bigger than a bus stop, requiring only a canopy for rain shelter and small ticket machine on an existing sidewalk.

In contrast, building elevated rail through downtown Honolulu would create enormous construction impacts since entire roadways will need to be cut open to pour underground spread foundations to support the weight of the elevated guideway. Constructing the football-field sized stations planned for elevated rail would create immense disruption to nearby structures, traffic and businesses downtown.

*Myth: Street level rail will be slowed to the speed of automobile traffic.*

**Fact:** The Middle Street-to-Downtown segment would be slower by 2-3 minutes (depending on length of final route). Signal synchronization can be used so that the street level trains can maintain 30-mile-per-hour speed through downtown, nearly the same speed as elevated rail. Managed lanes (for trains and busses only) keep trains running independent of automobile traffic speeds, and also greatly increase safety.

*Myth: Changing the plan now would result in a loss of federal funding, and slow or halt the rail project.*

**Fact:** The FTA has already listed street level rail as an acceptable option to complete the route to downtown. The Recovery Plan sent to HART officials by the FTA in June 2016 lists six options for completion in order to receive \$1.55B in federal funding. The FTA does not dictate what rail technology is used. Option 2A in the Recovery Plan reads, "Build to Middle Street as planned and continue with at-grade rail system." In September 2016 the FTA clarified that the route could extend to Downtown (Aloha Tower) at a minimum in order to qualify for federal funding.

With any major change in route, a supplement to the Environmental Impact Statement (EIS) is needed. However, this does not take the same amount of time as a full EIS. For example, in March 2010, the city changed the route of the rail at the airport because it was too close to the runways. The EIS was modified in a matter of 3 months and the revised EIS was submitted in June.

Even taking the time to make technical adjustments and put new plans in place, the project could be completed 4 years faster because of the speed with which street level rail tracks can be laid.

*Myth: A street level system through downtown will result in loss of ridership capacity.*

**Fact:** Making a technical change to car design to have 3 instead of 4 cars per train can be made up for by increasing frequency at peak times to every 5 instead of 6 minutes.

A route through downtown Honolulu would deliver riders to their places of work. Instead of just a commuter rail, it would be a true urban transit system, attracting additional riders who want to travel through the city center's intense employment areas. Very few commuters from West Oahu have an end destination of the few stops planned along Nimitz Highway or Ala Moana Center.

The mayor's financial plan is for taxpayers to write him a blank check. In return, absolutely no public financial reporting has been released by HART, and cost estimates keep going up. Using the proposed street level route, the city already has enough funds to complete the project using existing GET surcharge money through 2027, without imposing more taxes. This would save 4 years of construction time and \$3-4 Billion dollars. It's time to salvage the rail.

[www.SalvageTheRail.org](http://www.SalvageTheRail.org)

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Representative Ward rose, stating:

"Mr. Speaker, point of personal privilege, point of information. Mr. Speaker, last night we voted in the committee, eight yes, six no. This is the largest public works projects in the State of Hawaii. Well I learned this morning that we are not allowed to have amendments on second reading. I was personally grieved. When we did same-sex marriage, we had all kinds of amendments. But this one, which is the largest project, you're saying, no amendments, it's a done deal, it's locked and loaded, and you're not going to touch it. Because tomorrow we're going to send the whole thing and wrap it up.

"Mr. Speaker, that's not fair. Could you please explain why we are not having second amendments, where there's nothing in the rules that says we can't, but there's a lot of people who would like to see a forensic audit in there, the word 'f' forensic, to make sure that this thing is totally locked down to be examined with thoroughness, others would like to see alternatives spelled out."

The Chair addressed Representative Ward, stating:

"Representative, please state your point."

Representative Ward continued, stating:

"The point is, Mr. Speaker, could you explain why you're not allowing second amendments, contrary to the rules."

At 10:15 o'clock a.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 10:20 o'clock a.m.

Representative Todd rose and asked that the Clerk record a no vote for him, and the Chair "so ordered."

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

"Thank you, Mr. Speaker. Can you please put me down for a no vote? Last night's hearing was really long and I want to thank all of the committee members for being there.

"There was something that happened last night where the Vice Chair went out and reached out to a constituent that came from a far ways, and I appreciate the graciousness of the Chair in allowing those testimonies. But what we heard last night was that there are many people opining that they wanted time to understand, to hear, to weigh in, and specifically it was the outer islanders, that's where the huge conflict was last night, is that they felt like if there was informational briefings on the other islands, that we would have avoided a lot of the conflict that happened.

"And you yourself said, Mr. Speaker, that this has been a very, very divisive issue, in that by dividing us from island against island, outer islands versus Oahu Island, west side versus east side, that it hasn't helped our state at all. And I really wanted to say that I feel like this September 15th date that everyone keeps alluding to, we knew that since April, the city knew that since April that this date was coming around. And so that date has been here for months, that they knew that they had to prepare.

"In the meantime, our job is to listen and allow everyone to weigh in, and allow everyone a chance to understand. There's been such huge misinformation, and I would say lack of transparency and timing maybe, I don't know, there's a lot of different things that led up to why we're at where we're at today with a lot of the confusion. And I personally feel like we should take the time to have the outer islands have hearings. Allow them to at least understand and clarify, so that we can make sure that we're letting everybody, not just the constituents on this island—"

Representative Morikawa rose to a point of order, stating:

"Mr. Speaker, point of order, please. I think she needs to talk about the bill and not what happened at the hearing."

Representative Tupola continued, stating:

"And I think that that's why I'm opposing the bill, is because not just the fact that we are raising taxes or extending or touching the TAT or the budget or the forensic audit or should we have a smaller alternative proposal, all of those things are built in to why people are opposing this bill. But why we should oppose this bill now is to consider the fact that we should allow people to weigh in and let us hear what they have to say and clarify this information for them. We do that on other bills, especially bills that are statewide, that create divisiveness across the State.

"And that's what I'm saying in this is why I oppose this bill. It's not just because of the contents of the bill, but the way that we did it, which I hope we would go back and look through that and say, you know what, we could have done this better, we could have done the informational hearings in such a way that more people got this information correctly. That way when we're in the hearing and we're debating about the contents of the bill, everyone knows what we're debating. Instead of here we are, at the 11th hour, one more day, and now people are just starting to understand. Oh, so it's not us it's them, so it's this it's not that.

"And so I personally, Mr. Speaker, hear what you're saying about the divisiveness of what's going on here, and I feel like it is our job. If we're going to be the people that stand in the middle between the city and the Federal Government, then we can put our foot down and say, you know what, we're going to do this right, because if we're going to be held accountable for this then we're going to make sure that we did our part in what we could control to make sure that everybody's voices were heard on an issue that affects everybody across the State. Thank you, Mr. Speaker."

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

"Mr. Speaker, in support with reservations. As the House Tourism Chair, I have some concerns in our taxing our largest economic driver, tourism, and not being able to provide the industry with some support to help mitigate some of the consequences of our tourism industry. I think we've heard a lot about that from different communities throughout the State, and I was hoping that we would have been able to help provide some funding to assist the tourism industry with trying to mitigate some of those concerns. Thank you."

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

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

"Thank you, Mr. Speaker. Reservations please, and would just like to add the comments of the Tourism Chair, except for the Tourism Chair part into the Journal. Thanks," and the Chair "so ordered." (By reference only.)

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

"With reservations. Mr. Speaker, I voted no in 2015 because I felt the GE tax was very regressive. I voted yes in the 2017 Regular Session with a similar bill like this because I felt that this was a step towards tax equity.

"The GE is very regressive. The GE taxes everything. The Oahu GE tax affects the neighbor island poor. I think in one calculation I made, just on a regular \$150 grocery bill that goes through Oahu, we're talking about \$13 in Oahu GE tax that the poor in Puna would need. That's four gallons of gas. If you've ever lived in Puna, you see people with gas tanks asking for gas money, because it takes a gallon of gas to just go to Hilo. That's four gallons of gas that the poor in Puna could save when we move this taxation from GE, even if it's an Oahu GE, to a tourist tax.

"Now, let's make sure. The county believes for some reason that the TAT is their money. It's not their money. 1986, it's the State's money. It's a tax on tourists. The more expensive your hotel room, the more you pay. That's tax equity. The more you can afford, the people who can afford a hotel room, pay. The more expensive the hotel room, the more you pay. The poor, on

the other hand, who cannot afford a hotel room, have no choice but to pay the Oahu GE tax. And that's the reason I am for this bill. But with reservations because I agree with the prior speakers, we haven't looked at alternatives, nor an informational hearing. And I really disagree with this whole rail boondoggle, but a half built rail helps no one. Thank you."

Representative Lowen rose and asked that the Clerk record a no vote for her, and the Chair "so ordered."

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

"No vote, brief comment, Mr. Speaker. I will proceed without challenging the ruling of the Chair, because I think the way we've misread the ruling on second reading is incorrect, and there's precedent for same-sex marriage, as I've said earlier. However, with this bill, and with this restructuring of the neighbor island economies, as the councilmembers said last night, it's structured very, very unfairly. And if we're not going to be able to amend to talk about some of the specifics now, Friday's going to be a long session.

"But it's where everybody has got to finish, because someone said the Senate cannot come back in, so we can't extend, so we're kind of locked into this kabuki play, choreographed, pass it and get it over with, rather than, and as the last 10 years have been, to fine tune, to get the experts to really make this a better bill. My fear is, Mr. Speaker, we're going to be doing what we've done for the last 10 years, and that is just push it down, kick the can down the road.

"And Mr. Speaker, when we face what was the Mayor's lack of recanting that the stress test money is no longer necessary, there's still \$600 million to \$900 million that's out there as a question mark, which Mayor Caldwell himself said he was still thinking about, and how to do it. He didn't recant that when Congressman Hanabusa said that there's no money up front for that. The difficulty, Mr. Speaker, is we've heard promises we're never going to come back again, last night we heard in between the lines that we don't know how we're going to do operational and maintenance, which is millions and millions of dollars. So this baby is not over yet, the operation and the maintenance costs are still dangling out there.

"So the quicker we want to put this thing to bed and wrap it up tomorrow, the more this hangover is going to perpetuate. After the past 10 years, it's going to be another five to 10 years, because when that baby starts going, whether it's down at the lower level or the upper level, it's got to have maintenance and operational costs.

"And Mr. Speaker, speaking on behalf of my district, the one thing we don't want to do is to raise the property taxes to pay for this boondoggle. That would be totally unfair, totally unjust, and uncalled for. And if this is a sleeper play that the Mayor or his council is doing, we should out him. And that's why we should discuss and amend this bill with thoroughness tomorrow, and I hope you don't have it as a done deal and it's not something that we can open up and make better. We can always do better. After 10 years of what we've done, we can do much better. Much better, Mr. Speaker. Having said that, I will reserve all my comments for Friday. Thank you."

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

"Thank you, Mr. Speaker. I rise with strong reservations, I doubt they will be resolved by tomorrow. However, I'd like to mention a procedure that has come into play in medicine, and particular in surgery, called a time out. In a time out, everyone stops, they go over a check list, they say, what leg are we going to cut off, what are we going to do, is this the right person? And in the past, they did cut off the wrong leg.

"Now, I think, as has been raised by others here, the money is there to continue this project for a while. A forensic audit has been called for. And I think it's time we consider that, a time out should be taken, because we don't even know whose leg should be cut off. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. No vote, and may I have the comments by the Representative from Kailua about homelessness inserted into the Journal as if they were my own. Thank you," and the Chair "so ordered." (By reference only.)

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

"Thank you, Mr. Speaker. In strong support. First, I'd like to thank you, Mr. Speaker, for allowing me and the Finance Chair to work with the Senate on this important measure. Together, we were able to make tremendous strides to get to where we are today with a bill that has been carefully crafted to address the obligations of today and the future. It was not an easy process.

"The Senate and the House negotiating teams focused on areas of accountability, oversight, and a more balanced funding approach. And what we have today in SB 4 is a product of those focused areas. We concentrated on these areas because it is evident that the current funding mechanism does not allow the current involved entities to be prudent regarding costs and expenses. As we all know, the project shortfall exploded shortly after the 2015 legislative session, and continues to face challenges, Mr. Speaker.

"What we have in front of us is a comprehensive measure that provides adequate funding to Ala Moana, provides necessary fiscal oversight, provides balance between the needs of the city and yet remains fiscally responsible to our state obligations, weighs some of the concerns of the neighbor islands, and provides an opportunity to save on project costs which alleviate some of the tax burdens on local residents. Mr. Speaker, it is for these reasons I stand in strong support of this measure, and encourage the members to support SB 4. *Mahalo.*"

At 10:33 o'clock a.m., Representative Tokioka requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 10:34 o'clock a.m.

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

The motion was put to vote by the Chair and carried, and the report of the Committees was adopted and S.B. No. 4, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT," passed Second Reading and was placed on the calendar for Third Reading, with Representatives Creagan, Evans, McKelvey, Onishi, Oshiro and San Buenaventura voting aye with reservations, with Representatives Brower, Choy, Lowen, Quinlan, Thielen, Todd, Tupola and Ward voting no, and with Representatives Har, Hashem, Matsumoto, McDermott and Nishimoto being excused.

## INTRODUCTION OF RESOLUTIONS

By unanimous consent, the following resolution (H.R. No. 7) was referred to Printing and further action was deferred:

H.R. No. 7, entitled: "HOUSE RESOLUTION EXPRESSING ALOHA AND SUPPORT FOR THE RESIDENTS OF HOUSTON AND THE PEOPLE OF TEXAS AFFECTED BY HURRICANE HARVEY," was jointly offered by Representatives Ward, Belatti, Choy, Gates, Holt, Kong, LoPresti, Luke, Morikawa, Quinlan, Saiki, Todd, Tokioka, Creagan, Evans, Lee, Thielen and Tupola.

## LATE INTRODUCTIONS

The following late introduction was made to the Members of the House:

Representative Ward introduced Mr. Mike Goodman, Director, Hawaii Kai Homeless Task Force.

**ANNOUNCEMENTS**

Representative Quinlan: "Mr. Speaker, I would like to specially thank Rod Tanonaka, our Sergeant-at-Arms today, for the way he handled a very difficult situation yesterday with one of my constituents. He handled it with grace and aplomb, and I thank him for his service. Thank you."

**ADJOURNMENT**

At 10:36 o'clock a.m., on motion by Representative Morikawa, seconded by Representative Ward and carried, the House of Representatives adjourned until 10:00 o'clock a.m. tomorrow, Friday, September 1, 2017. (Representatives Har, Hashem, Matsumoto, McDermott and Nishimoto were excused.)