

**HAWAII STATE**

**HOUSE OF REPRESENTATIVES**

**SPECIAL SESSION OF 2017**

***ROUGH DRAFT***  
***JOURNAL***

**FIFTH DAY**

**SEPTEMBER 1, 2017**

**OFFICE OF THE CHIEF CLERK**

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## FIFTH DAY

Friday, September 1, 2017

The House of Representatives of the Twenty-Ninth Legislature of the State of Hawaii, Special Session of 2017, convened at 10:09 o'clock a.m., with Speaker Saiki presiding.

The invocation was delivered by Ms. Jessica Klein and Ms. Sheila Pacariem, after which the Roll was called showing all Members present with the exception of Representatives Har, Hashem, Matsumoto, Nishimoto and Oshiro, who were excused.

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

## INTRODUCTIONS

The following introductions were made to the Members of the House:

Representative DeCoite introduced students from Lanai High School: Naighel Calderon, Isaiah Nakano, Jose Matute, Kainalu Morimoto, Maile Laporga, Allyna Teppang, Mitchell Ganir, Michael Raqueno, Trevan Ayonayon and Tower Vergara; their teachers: Ms. Jen May Pastores, Ms. Erin Nakano and Ms. Patricia Niibu; and from Maui County Council: Councilmember Stacy Crivello and Council Chair Mike White.

Representative Cullen introduced his constituent, Mr. George Hurd of Hawaii News Now.

Representative Lowen introduced Hawaii County Council Chair Valerie Poindexter.

Representative Choy introduced his constituent and Mayor of the City and County of Honolulu, Kirk Caldwell.

Representative Ward introduced Honolulu City Council Chair Ron Menor.

Representative LoPresti introduced Mr. Michael Golojuch, Jr., Chair, LGBT Caucus, Democratic Party of Hawaii.

At 10:18 o'clock a.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 11:14 o'clock a.m.

## ORDER OF THE DAY

## SUSPENSION OF RULES

On motion by Representative Morikawa, seconded by Representative Ward and carried, the rules were suspended for the purpose of considering certain Senate Bills for Third Reading by consent calendar. (Representatives Har, Hashem, Matsumoto, Nakashima, Nishimoto, Quinlan and Say were excused.)

## THIRD READING

## S.B. No. 2:

On motion by Representative Evans, seconded by Representative Morikawa and carried, S.B. No. 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYMENT COST ITEMS," passed Third Reading by a vote of 44 ayes, with Representatives Har, Hashem, Matsumoto, Nakashima, Nishimoto, Quinlan and Say being excused.

## S.B. No. 3:

On motion by Representative Evans, seconded by Representative Morikawa and carried, S.B. No. 3, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYMENT," passed Third Reading by a vote of 44 ayes, with Representatives Har, Hashem, Matsumoto, Nakashima, Nishimoto, Quinlan and Say being excused.

At 11:15 o'clock a.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 2  
S.B. No. 3

## LATE INTRODUCTIONS

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

Representative Tokioka introduced visitors from Kauai: Mr. and Mrs. Jim and Joanne McDowell, Mr. and Mrs. David and Shirley Iha, Mr. and Mrs. Roy and Barbara Miyaki, and Ms. Gladys Fujiuchi.

## THIRD READING

## S.B. No. 4:

Representative Evans moved that S.B. No. 4 pass Third Reading, seconded by Representative Morikawa.

At this time, Representative Tupola offered Floor Amendment No. 1, amending S.B. No. 4 as follows:

SECTION 1. Senate Bill No. 4 is amended as follows:

1. In section 1 of the bill, by:

- A. Adding a paragraph stating that a purpose of the Act is to protect the public interest, ensure accountability, and help to restore public confidence by conducting an independent forensic audit; and
- B. Adding a paragraph stating that a purpose of the Act is to protect public finances by conducting a new alternatives analysis that reconsiders underlying assumptions and examines the costs and benefits of all feasible alternative options;

2. In section 11 of the bill, by:

- A. Providing for a thorough forensic examination and evaluation for the presence of any form of fraud, waste, or abuse, including but not limited to embezzlement, theft, pay-to-play or insider arrangements, fraudulent payments, duplicate payments, or conflicts of interest;
- B. Providing for a review and evaluation of all financial statements made by the Honolulu authority for rapid transportation for accuracy and lawfulness;
- C. Providing for a complete assessment of the finances and expenditures of the Honolulu authority for rapid transportation for public release;
- D. Providing for a new alternatives analysis that reconsiders underlying assumptions and examines the costs and benefits of all feasible alternative options relating to the Honolulu rail transit project that remain within the limited budget of the Honolulu authority for rapid transportation;
- E. Directing the state auditor to transmit any evidence or facts pointing to unauthorized, illegal, irregular, improper, or unsafe handling or expenditure of public funds or other conduct to the legislature and other authorities; and

- F. Requiring that any individuals or firms contracted by the state auditor to provide auditing services must be independent and free of conflicts of interest, including any direct or indirect financial interest in the Honolulu rail transit project;
3. In section 12 of the bill, by directing the state auditor to determine whether the Honolulu authority for rapid transportation has committed fraud, waste, or abuse in its handling or expenditure of public funds or other conduct as part of an annual review; and
4. By making conforming technical amendments and renumbering sections of the bill accordingly.

Representative Tupola moved that Floor Amendment No. 1 be adopted, seconded by Representative Ward.

Representative Tupola rose to speak in support of the proposed floor amendment, stating:

"Thank you, Mr. Speaker. We offer the following floor amendment. I oppose the underlying bill with the following amendment and your consideration. And part of it is to insert, in section 11, the word 'forensic.' We've talked about it in the hearings, we've had numerous emails, constituent complaints, even media people, specifying the difference between an audit and a forensic audit.

"I just have two points that I want to bring up, which is the difference between what the city audited and what we have, or if it is the same. And so the four objectives from the city auditor were as follows, and this is the 2016 audit by Edwin Young. These are the four objectives.

"The city auditor was to assess the reliability of HART's financial information provided to government decision makers and the public about the project's fiscal challenges. We can see a similar portion of that in our bill, part 4, section (a)(2).

"The second objective was to determine whether HART has a reasonable subsidy plan to fund future operational and maintenance costs. You can see a similar section of that in part 4, section (b)(2) of our bill.

"The third objective was to assess compliance of HART's procurement and contract management practices. We have a similar section in part 4, section (a)(2).

"The last objective was to evaluate the project's financial viability and the likelihood of other factors that could potentially cause more cost overruns. We have that in part 4, section (b)(2).

"The point that I'm trying to make is that if our audit, as suggested in our bill, is written in similar language that was given to the city to do in 2016, we need to make sure that the word 'forensic' is in there, and that there's a differentiation between what we're asking for, which is that we want there to be specific studies on the fraud, waste, possible abuse. And that's so important, because we can all agree that the management of the project has been below satisfactory for everyone, across the State.

"These are some of the findings from the city auditor, that some have not been resolved. HART has financial and subsidiary plans that were not reliable or current. As of the audit, HART has not updated its financial plans to reflect the rail's current financial conditions. HART has weak controls over financial information reporting. HART does not ensure data is complete and readily available for its Contract Management System. The Project Management Plan and operations maintenance plan are outdated and unreliable as decision-making tools. HART has made concessions to one single contractor, did not perform a quantitative analysis to justify major decision to repackage a bid for nine west-side stations, paid \$1.5 million in stipends to unsuccessful bidders, paid for a vacant office space, tried to discredit the work of the audit, made cost estimates without supporting documentation, started delay claims that were undocumented, had controls that were insufficient to control the cost increases, files were missing, and there was no evidence that contract managers conducted performance reviews, 22 files did not have contract managers, three files had no evidence of a cost or price or analysis, and lastly, it lacked proper review and documentation to support work or service build.

"These are findings from the city auditor, and like I said, some of them have not been resolved. And therefore it stands that it's so important for us to write in there that there be a forensic audit and that we study for fraud, waste, abuse, embezzlement, everything that we think is happening, look deeper into it and make sure that when we say audit, we really mean dig deep, so a forensic audit, and do it the right way. Thank you, Mr. Speaker."

Representative Thielen rose to speak in support of the proposed floor amendment, stating:

"Thank you, Mr. Speaker. In opposition to the underlying bill, Senate Bill 4, and in support of Floor Amendment Number 1. Mr. Speaker, I'm going to focus on alternatives. And I'm not sure if you were present during the public rail forum on July 14, but an organization called SalvagetheRail.org brought in three experts, international experts, on transit, on rail transit. Dr. Vuchic from the University of Pennsylvania, Douglas Tilden and Gary Andrishak. And they spent a week, Mr. Speaker, in Honolulu, studying HART project prior to this forum.

"Their recommendations were, the elevated rail system should end at Middle Street. I've been saying that all along, bring it down at Middle Street to street level. And then they went on to talk about the light rail system that would run street-level from Middle Street onward, and actually even be able to go further than the original system is planned. Mr. Speaker, the city has enough money--"

Representative Morikawa rose to a point of order, stating:

"Mr. Speaker, point of order. Can we just speak about the amendment in front of us?"

The Chair addressed Representative Thielen, stating:

"Yes, please confine your remarks to the floor amendment."

Representative Thielen continued, stating:

"I am. That's why the alternatives are so important, Mr. Speaker. The city has enough money to go ahead with this alternative, of stopping at Middle Street and then going light rail from then on at street-level.

"As I look at all of us in this building and realize that eventually, if this project goes as it's presently structured to do, with this massive overhead system through Chinatown and Downtown, Mr. Speaker, I look at this system and I look at us someday being asked the question, were you there when these decisions were being made? Were you there when this overhead system is going to be just a short block away from the Stagenwald building, that wonderful historic building that, Mr. Speaker, when my husband was alive, he did the renovations in Chinatown? He renovated the Stagenwald building. He built Maunakea Marketplace. He renovated the arcade building and Mendonca building. All of them will be overshadowed by a massive overhead rail system.

"And when those people ask you, were you here, and you answer, it was a city project, and then the person would ask, but was there a time when you could have done something? And that time is right now. And you'd have to answer, yes. With Floor Amendment 1, with the alternatives, taking a breather, having the project stop at Middle Street, then we could answer the person, yes, there was a time, and I did something, we stopped that massive overhead device from going along our waterfront and through Chinatown and the Downtown historic district. Yes, I could have done something, and I did it.

"So I'm asking all the members in here to cast their voice in support of this amendment. Thank you, Mr. Speaker."

Representative Luke rose to speak in opposition to the proposed floor amendment, stating:

"Thank you, Mr. Speaker. In opposition to this floor amendment. And contrary to what has been said, this actually extends the GE tax, implements the TAT. So in essence, the introducers are supporting not stopping the rail

project at Middle Street, but supporting the GET extension and implementation of the TAT tax.

"As to the audit, we looked at whether the audit should say 'forensic audit' as opposed to 'audit.' The problem with saying 'forensic,' forensic audit has a specific connotation, it's in search of crime to be used in court. And because of that, we didn't want to restrict this auditor from expanding his duties to look at everything he felt was necessary, as opposed to just looking for things that were relating to crime and embezzlement. Forensic has a specific meaning, and that's why we were cautioned, if we wanted to do an extensive and expansive audit, we need to just say 'audit' and give him all the authority.

"I don't think adding the word 'forensic' or adding certain words is going to change this guy's mentality in looking at every single contract. This man is already chomping at the bits. He asked for \$1 million of state tax dollars to get ready to start looking at contracts tomorrow. And we're telling him, no, no, no, hold off, okay, we've got to pass the bill first and then the Governor has to sign it first. This man is the one who had the courage to go after teachers when we told him, okay, you know what, don't go after teachers. I mean, this guy is a pit bull. And so I don't think adding the word 'forensic' is going to stop him from looking for waste, in fact it's going to impede his ability to fully look at what the rail project is all about. So please vote it down, don't restrict him. Thank you."

Representative Ward rose to speak in support of the proposed floor amendment, stating:

"Mr. Speaker, in support of the amendment. Thank you, Mr. Speaker, thank you for hearing us out after the false shutdown on yesterday saying that the second reading you cannot have amendments, and now we have a chance to speak out. I also start with a disclaimer as my colleagues, we are against the underlying bill, and all of these amendments that we're proposing should not be done by the minority, they should have been done by the majority.

"Mr. Speaker, having said that, let me quote John Henry Felix, a member of the HART board. He very specifically said, and he spoke to the people of Honolulu very, very directly. As a HART board member he said, 'we have been continually blindsided by the wildly escalating costs of building the rail infrastructure and we still have no idea what it will cost to maintain and operate the system.' This is inside, with John Henry Felix. I totally agree with what he said.

"The city auditor said, in terms of why there should be the 'f' word, 'forensic' in there. The City Auditor, Edwin Young, said that the red flags were there to suggest evidence of fraud. He stated that the internal controls were so weak that if fraud, waste or abuse were to occur, HART and others would not have detected it, could not prevent it, and could not have taken corrective action.

"In the hearing on Wednesday, the Finance Committee had Mr. Kondo, the pit bull that the Finance Chair says was there, who has earned a reputation as the ethics czar, but when it came to asking Mr. Kondo, the now auditor and auditor tsar, if you will, we said, will you be looking for fraud? And all of you who were there will say, well he said maybe.

"The point is, everybody's been talking about a forensic audit, except now when we come to this bill, the 'f' word is out of there, 'forensic' is not in there. If we just find that there was a few delays and a few payments, so what? There's enough evidence from what the city auditor has said to make forensic an integral part of this. Otherwise, as the auditor said, well maybe we'll look for these kinds of things. And everybody's been using the word 'forensic,' and now surprisingly we can't do it, even I think Mayor Caldwell has used the word 'forensic' on occasion. That everybody's for a forensic audit.

"So to make sure, as John Henry has tried to put forward, we need transparency, we need the people of Hawaii to know specifically what it is that they're up to, what it is that they're doing, and what it is that needs to be done. Mr. Speaker, a forensic audit is the only way to do that, it's the only way to bring confidence back into the people of Hawaii regarding this, and it's because of this that I vote yes for this amendment. Thank you."

Representative McKelvey rose to speak in opposition to the proposed floor amendment, stating:

"In opposition to the floor amendment, Mr. Speaker. That fact is, to put 'forensic' in there would limit his ability. He has flexibility with the existing language in the bill to do a full-scope audit and, should the facts lead him there, to conduct a forensic audit. That's why the resources are given to him to hire outside experts. And I think it was very instructive, the Finance Chair's remarks, and she's an attorney. And so there's a legal ramification of 'forensic' which can be drawn upon by the auditor should he choose. This language in there gives him that flexibility, and that's why I'm opposed to the floor amendment. Thank you."

Representative Ward rose to respond, stating:

"Mr. Speaker, may I rebut that briefly? Mr. Speaker, all of us here are wordsmiths. We can put in 'efficiency audit,' we can put in 'forensic audit,' and we can put 'efficiency and forensic' as the terminology. You don't have to just call it one thing. But if you want to do both, you put the language in. We didn't do that. So the previous speaker that said, well, we only can use one, or suggesting only 'forensic' works, is not the reality. We all know how we use words when we write bills.

"Specifically, this bill does not include 'forensic,' because reasons why which none of the minority understands, and the people of Hawaii will not understand it, unless something comes out really with detail and specificity, where we're transparent and we're open with the people of Hawaii. Thank you."

Representative Thielen rose to respond, stating:

"Mr. Speaker, may I please have permission to put the short remarks from Salvage the Rail in the Journal, please. Thank you."

Representative Thielen submitted the following:

A public forum on the future of rail transit in Honolulu at the State Capitol was organized by SalvagetheRail.org on Friday afternoon July 14, 2017. Three independent experts on rail transit, Dr. Vukan Vuchic (University of Pennsylvania), Douglas Tilden FAIA (formerly of InfraConsult) and Gary Andrishak (IBI Group), spent a week in Honolulu studying the HART project prior to the forum.

Recommendation by the Forum speakers:

1. The elevated rail system currently under construction should end at Middle Street.
2. The existing Middle Street Transit Center (26 acres) should be expanded to 40 acres and reconfigured as an O&M facility for a new LRT system.
3. LRT trains should depart from the same platform as the elevated trains and be synchronized with elevated train arrivals.
4. The initial phase of the LRT route should run from the Middle Street Transit Center to North King Street, in two-way configuration down the center of North King, then in one-way configuration on King Street to the Alapai Transit Center with a loop back through Downtown on Beretania Street.
5. The King Street corridor is wider and has fewer utility conflicts than the Dillingham Boulevard corridor. A separate LRT system from Middle Street would allow expansion to UH/Manoa and Waikiki to be feasible and cost-effective.
6. Elevated guideways and stations are not appropriate for downtown cores; their design and construction is more consistent with a high-speed freeway. Street level Light Rail Transit (LRT) is far more appropriate for the center of cities and is used in dozens of cities in North America and hundreds of cities worldwide.
7. A street level LRT system will both preserve the walkability, quality of life and historic features of Downtown. A particular benefit is the transformative urban design opportunities made possible by LRT with regard to the streetscape/public realm: with pedestrian friendly improvements to sidewalks, crosswalks, public plazas, street lighting, as well as bicycle lanes. In particular, North King Street from Middle Street to Aala Park is ripe for redevelopment potential of this type.

A cost worksheet for street level rail is attached.

Sincerely,

Adria Estribou

for Salvage the Rail

www.SalvagetheRail.org



**COSTS TO COMPLETE RAIL TO DOWNTOWN USING STREET-LEVEL ALTERNATIVE**

<b>Construction &amp; Equipment Costs</b>	
1. 3.0 miles of street-level rail from Middle Street station to Alapai Street > unit cost of \$150M/mi based on 2017 Los Angeles Light Rail construction costs \$100M - \$150M/mi	<b>\$450M</b>
2. 20 low-floor rail cars with overhead power pickup (change final 25% of existing 80-car contract)	<b>\$0</b>
3. New Operations and Maintenance facility for light rail cars/ trains	<b>\$250M</b>
<b>Total Construction &amp; Equipment Costs:</b>	<b>\$700M</b>
<b>Redesign Costs</b>	
1. A&E drawings and specifications for street-level route (3.0 miles) (Based on 20% of construction cost of \$450M)	<b>\$90M</b>
2. Preparation of EIS Technical Memorandum for route change and study of traffic impacts	<b>\$5M</b>
<b>Total Paperwork Costs:</b>	<b>\$95M</b>
<b>Total Cost of Street Level Rail from Middle St to Downtown:</b>	<b>\$795M</b>
Current rail funding: \$6.8 B	
Projected rail cost to Middle Street: \$6.22B	
Current available rail funding after Middle Street: \$ 58B / \$580 M	
Additional funding: change State skim from 10% to 1% / \$300 M	
<b>Total Available Rail Funds:</b>	<b>\$880M</b>

As of August 31, 2017

The motion that Floor Amendment No. 1, amending S.B. No. 4, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT," be adopted, was put to vote by the Chair and upon a voice vote, failed to carry, with Representatives Har, Hashem, Matsumoto and Nishimoto being excused.

At this time, Representative Tupola offered Floor Amendment No. 2, amending S.B. No. 4 as follows:

**SECTION 1. Senate Bill No. 4 is amended as follows:**

1. In section 8 of the bill, by inserting two provisions intended to cap the total aggregate funding by the legislature for the Honolulu rail transit project, between 2007 and 2030, at a grand total of approximately \$7,361,000,000 (not counting federal funds):

- A. Adding a "rail cap" provision that limits the total aggregate amount of funds that may be allocated and disbursed from the mass transit special fund; and
- B. Providing that the director of finance shall deduct and retain any excess tax revenues that would otherwise be deposited or paid into the mass transit special fund, and that amounts retained shall be general fund realizations of the state.

Representative Tupola moved that Floor Amendment No. 2 be adopted, seconded by Representative Ward.

Representative Tupola rose to speak in support of the proposed floor amendment, stating:

"Thank you, Mr. Speaker. Thank you for allowing us to introduce this floor amendment. This is specifically in regards to capping the project. The

number that we came up with was in reference to the sheet that was given from House leadership to the City and County, specifically to the Mayor, in regards to how much the project should cost.

"One of the biggest concerns we've heard in all of the hearings, in all of the years that this project has been going in, is when will the price tag stop increasing? And so this is a mechanism whereby there is a stop to public funds, and as you'll see in following amendments that there's mechanisms to help them find private funds, but we have to put a stop to it. We've heard it too many times, that we're not sure if we're maybe giving them too much money, and we agree. We should definitely make sure that we're giving the right amount, and that if we determine that there's amount this year, 2017, that in 2019 it doesn't change, in 2020 it doesn't change, in 2025 it doesn't change, and as you know, Mr. Speaker, we haven't been in control of that. And in order to be in control of that, having a cap on the project for public funds will allow us to do so, and therefore I'm in support of this amendment."

Representative Ward rose to speak in support of the proposed floor amendment, stating:

"Mr. Speaker, I rise in support of the amendment, and I say again that, it shouldn't be the minority who has to do this, anybody listening to the people of Hawaii knows that there's gotta be a cap on this thing. People are saying, enough is enough. I've done a survey of about 910 people, 82% say, put a cap on it. This amendment says, let's cap it at \$7.3 billion, and that does not include federal funding, so it can go up to the \$8, \$9 billion that it's at.

"And it says that, with a supermajority of the people of Hawaii behind it, why would you or any other member not want to put a cap on it? Otherwise, we are enabling the City and County to do what they've done for the last 5-10 years, when they run into trouble, they run back to us and say, look, we didn't figure it right, you guys gotta give us more money.

"If there's not a cap, just like those of us who have children, we don't put a cap on the allowance, there's always needs. If we don't put a cap the way the Constitution does on our budget for this House of Representatives, there's always needs that come up. And given that we're now almost triple what the budget was in the beginning, Mr. Speaker, there's got to be an end. Enough is enough is enough. Thank you, Mr. Speaker."

Representative Luke rose to speak in opposition to the proposed floor amendment, stating:

"Mr. Speaker, in opposition. As somebody who is a rail sceptic but still supports this bill, I do think that putting the cap will ensure that if they run out of funds and they meet the cap, the only alternative we're giving the City and County of Honolulu is to raise property taxes. So if you want your property taxes increased, then go ahead and vote for this cap. Because what we have done in the underlying bill, not this floor amendment, is that we have put in a safeguard and buffer. So in addition to a \$1 billion contingency, we have underestimated the projection of the GET.

"So in the end, what the Representative from Hawaii Kai is kind of inferring could be true, there could be surpluses in the end, but the last thing we should do is put a cap and ensure that there's a surplus and the State takes benefit of the surplus. I think that is offensive, we shouldn't try to make money off of this rail project, there should not be a cap to ensure that there's a surplus to the State. Vote it down. Thank you."

Representative Ward rose to respond, stating:

"Mr. Speaker, I admire the optimism of the Chair of Finance, that there's more money than we really need in here. I think according to her numbers that may be the case. To the others, nobody believes that. Nobody basically believes what the City and County has said, what the city council has said, what even in this bill may be the case.

"In terms of property tax, that has been the sword over the neck of every member of us from Oahu. If you don't do this, your property taxes are going to go up. She said that's the reason why we can't have a cap."

Representative Morikawa rose to a point of order, stating:

ROUGH DRAFT

"Mr. Speaker, point of order. Can the speaker please address the Speaker?"

The Chair addressed Representative Ward, stating:

"Yes, please address the Chair. Representative Ward, please address the Chair. Thank you."

Representative Ward continued, stating:

"My head is a little more in motion. Of course, that's protocol, sir. The point being, property taxes as the threat to my community and all of us on Oahu is an unfair suggestion. And I want to use this as a way of platforming what the next amendment is, because there's not one private dollar that is in this budget or in this bill. And that's what is going to come up in the next amendment, which we think is invaluable for, or imperative that the City and County raise money from the private sector rather than reverting to, as the Chair said, property taxes, which is a very, very unfair statement. Thank you, Chair."

The motion that Floor Amendment No. 2, amending S.B. No. 4, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT," be adopted, was put to vote by the Chair and upon a voice vote, failed to carry, with Representatives Har, Hashem, Matsumoto and Nishimoto being excused.

At this time, Representative Tupola offered Floor Amendment No. 3, amending S.B. No. 4 as follows:

SECTION 1. Senate Bill No. 4 is amended to require that the comptroller verify that at least \$816,000,000 (10 percent of the total project cost) has been raised for the Honolulu rail project through private investment or public-private partnerships before certifying the allocation of further funds, beginning on January 1, 2026 (approximately 85% of the way through the current project timeline), as follows:

1. In section 13 of the bill, by:

- A. Adding a provision requiring the comptroller to verify that the sum of \$816,000,000 or greater has been raised from private investment or public-private partnerships for expenditures for a locally preferred alternative for a mass transit project prior to issuing a certification statement for the allocation of state funds; and
- B. Adding a provision requiring the rapid transportation authority to provide the comptroller with any evidence pertaining to funds raised from private investment or public private partnerships for expenditures for the mass transit project;

2. By making conforming technical amendments and renumbering sections of the bill accordingly.

Representative Tupola moved that Floor Amendment No. 3 be adopted, seconded by Representative Ward.

Representative Ward rose to speak in support of the proposed floor amendment, stating:

"Thank you, Mr. Speaker, and thank you, Chair of Finance, for setting this up as the alternative to raising taxes. It's what I've been saying on this floor for probably the last two years, using Hong Kong and Japan as the example. They use the private sector, they use development rights, they use other than taxpayers' money. This amendment makes it mandatory that there will be public funds, in fact 10% by the year 2026.

"I appreciated Mufi Hannemann at our hearing on Wednesday saying that, hey, this is something that they're doing on the mainland, P3 is a common thing. I think Denver is an example where of \$1 billion, they raised almost \$450 million. It's not brain surgery. This is a no-brainer. But we have not made it imperative. Mr. Speaker, why have we always given the money without any conditions? And I know there are some vague conditions in this bill, but it's not to where the money that doesn't come from the taxpayer can come out of the private sector.

"Half of the land on the transit-oriented development corridor is owned by the State of Hawaii. I've asked the City and County, I've asked state people, they said, well we're not talking about that, we're sort of, I call it, what's it called, stove-piped. But if Japan can do it, if Hong Kong can do it, and they pay for the vast majority. This amendment to the bill only says 10% by 2026. That should be done without even trying, Mr. Speaker.

"So getting up with common practices that's done around the world, we should be doing. We've got to be more entrepreneurial, creative, innovative, because there's private sector money that would put itself in there to build either a hotel or a shopping center, a strip mall, workforce housing, condominiums. The whole growth corridor is there waiting, but the private sector, just like the City and County, doesn't have any skin in the game, and we have not insisted upon it. So it's our fault for eliminating this, and because of that, that's why we the minority have this, but we shouldn't even be introducing this, this should be coming out of the majority who's paying attention to what the people are saying, enough money from our taxes already. Thank you, Mr. Speaker."

Representative Tupola rose to speak in support of the proposed floor amendment, stating:

"Thank you, Mr. Speaker. I just wanted to add a comment as well, in support of the amendment, that one of the things that it does is allows us to put in a mechanism for people to think ahead. See, that's something we didn't do in the past. Because we've heard it in testimony from various city councilmembers as well as the Mayor that if we knew where we were today, we wouldn't have done the things we did. But we didn't know. And this builds in a mechanism that gives them so much time, that by the 85% mark of when they're finished with the project, that they would at least have some funds, some private funds. Because we don't want to come to that day and then figure out, oh shoot, we have no money for operational costs, we forgot that we need maintenance costs, I think we're going to have to raise taxes again.

"This is a mechanism that helps them to think now, because as we know, political figures change, elections change people, so how do we build in something that will ensure that we're thinking ahead, as we know that every year we've seen an increase in the amount of the price tag of this project. It is a good way for us to make sure that the following gap that might be foreseen is built in by private funds and thought ahead of at this point. Thank you, Mr. Speaker."

Representative Luke rose to speak in opposition to the proposed floor amendment, stating:

"Floor Amendment Number 3, in opposition. A lot of discussion have, we have discussed public-private partnership. And it is a valid point, but this is something that HART and the city need to figure out. One of the things we have looked at public-private partnership and whether we should be looking at putting some kind of requirement in the bill. What we have found out is, requiring public-private partnership may not end up being cheaper, because we're paying a private vendor to make profit off of the rail system. And so we did analysis, and having certain requirements and restrictions to do public-private partnership for certain sections or certain areas without having had that discussion early on when it should have been had. So I do agree, they should have had that discussion early on. But if it's something that is appropriate, and if it's going to save taxpayer money, yeah, by all means, HART and the city should do it.

"For us to require this and put restrictions without knowing whether this is going to actually end up costing the taxpayers more, and not only that, it's going to end up costing more because we're adding to the profits of certain private organization, I think it's a dangerous path that we're going to, because we don't know the answer, we don't know who's available, they have already said they have continuously tried to look for public-private partnership, whether it's developers or different entities. So I think through this discussion, they will look at it closer, but it is dangerous for us to put restrictions which may end up costing more. Thank you."

Representative Yamane rose to speak in opposition to the proposed floor amendment, stating:

"In opposition. Mr. Speaker, I do want to point out that this body did have the foresight in looking at public-private partnerships. Members, if you recall, this body just recently passed a measure to the Governor, HB 627, which addressed public-private partnerships, and the Governor vetoed the measure in his Governor's Message 1263. So members, just to highlight, we have looked at this measure as an option. Thank you."

Representative Say rose to speak in opposition to the proposed floor amendment, stating:

"Mr. Speaker, in opposition to the floor amendment. I wish the members of the House were all at that seminar which Department of Accounting and General Services provided to the legislators and to all state and county employees on the P3 program. I truly believe that DAGS will come up with a comprehensive program and legislation next year in the P3, because that was the discussion at that two-day seminar at the Neal Blaisdell Center.

"So in closing, that is why I am opposed to this measure that is before this body. But more importantly, I truly believe that the division chief will be sending down a very comprehensive P3 legislation in the spring of 2018. Thank you."

Representative Ward rose to respond, stating:

"Thank you, Mr. Speaker. Just a brief rebuttal. First, the PLDC, which had a very bad name, is not the same as selling a developer the right to build a hotel or selling somebody a right to build a shopping center or condominium. I think we're mixing apples and oranges.

"And to say that we've fully vetted this is poppycock. Did the person who said that we've really thoroughly looked at this talk to the South Korean contractor who said he was interested to build the rail, who approached the city council, who was rebuffed? Is that part of the data that was reported on this floor? I don't think so, Mr. Speaker. Who knows who this South Korean contractor is? How much was he going to pay? How much was he going to get out of it? Instead of making a profit, what development rights were offered him? Or, were they so stingily not offered to where he was incentivized?

"And the last reason, Mr. Speaker, why we should consider this P3, is because if, and I know a lot of you weren't there on Wednesday night, but the Mayor says, and he hasn't recanted, that there's a \$600 million to \$900 million *puka* in that budget. He didn't say that that is taken off the board, even though when Representative Hanabusa came up and said there's no stress test necessity of \$548 million. There was discussion after discussion, and I commend some of the members of the Finance Committee who tried to dice the question to make sure that the answer came up, but he still didn't answer the question. That is, there's a \$600 million to \$900 million *puka* in this budget. Mr. Speaker, that's a lot of money.

"If we don't sell development rights, if we don't get something to go through the private sector, then the knee jerk and the easy way, stick it on the back of the taxpayers who own houses and they pay property taxes. That's unfair. This is just waiting for us. And I would suggest, anybody who knows anybody on the city council, find out who that South Korean contractor is, get him in here and talk story. Thank you, Mr. Speaker."

Representative Tupola rose to respond, stating:

"Thank you, Mr. Speaker. Just real quick, I think it's great that the State is looking at P3 relationships. And as we've seen with the city, we talked about this in April and here we are in August, still no new P3 relationships. And so knowing that no one is thinking ahead, it is a mechanism whereby they can. I'm glad we are and that we're looking into something for the State, and we're hoping that there's more thought process in the city as far as looking ahead on how to build these relationships. Thank you."

The motion that Floor Amendment No. 3, amending S.B. No. 4, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT," be adopted, was put to vote by the Chair and upon a voice vote, failed to carry, with Representatives Har, Hashem, Matsumoto and Nishimoto being excused.

At this time, Representative Tupola offered Floor Amendment No. 4, amending S.B. No. 4 as follows:

SECTION 1. The purpose of this amendment is to exclude neighbor islands from the transient accommodations tax increase, in order to better assess the impact of transient accommodations taxes on counties and implement an equitable allocation of transient accommodations tax revenues to each county that aligns with the findings of the 2014 State-County Functions Working Group. The working group was mandated by the legislature to submit recommendations on the appropriate allocations of transient accommodations tax revenues between the State and counties that properly reflects the division of duties and responsibilities relating to the provisions of public services. The group unanimously recommended a fair, predictable, simple, and flexible allocation model of transient accommodations tax revenue. By exempting the neighbor island counties from the tax increase, the legislature can review and implement the measures proposed by the working group.

SECTION 2. Senate Bill No. 4 is amended as follows:

1. In section 9 of the bill, by adding a clause limiting the application of the 10.25 per cent tax rate solely to transient accommodations furnished in, or resort time share vacation units located in, a county with a population greater than five hundred thousand.

Representative Tupola moved that Floor Amendment No. 4 be adopted, seconded by Representative Ward.

Representative Tupola rose to speak in support of the proposed floor amendment, stating:

"Thank you, Mr. Speaker. Thank you for allowing us to introduce this amendment to the bill. This one is in specific about carving out the TAT for the outer islands. And one of the reasons being is what I brought up in my previous comments on second reading, which was that we didn't have enough informational hearings on the outer islands.

"As well as some of the comments that were brought up in the testimony from some of the councilmembers made me start to look through some of these auditors reports. I read through the 170 page document that was produced by the 2014-2015 county working group, to really dig deep and figure out what exactly are we doing with the TAT, how many times has it been touched. So right here in this document, and I would ask that I could please have permission to insert the county working document into the Journal, it says here, January 1987 the TAT was at 5%, 1994 it went up to 6%, 1999, 7.25%, 2009 it went up to 8.25%, July 2010 it went up to 9.25%. And today we're voting to take it up one more percent, 10.25%.

"And the reason why I'm bringing that up is because the amount of times that we touch the TAT is what kind of stirred the necessity for this body to ask a working group to start to look into the TAT, the distributions, the fairness. So this group was mandated by the Legislature to convene. They did so in, I think they were allotted \$150,000 for a consultant to help them to determine how many services the State provides versus how many services the city provides, and if the current allocation of the TAT is fair.

"And so if you look through this document, there's lots of good numbers in there, and they came up with this by using financial statements from each county to determine how many services they're providing in regards to tourism, and if that is equitable per the amount of dollars given to them by the TAT tax.

"And so I'll just skip to the end, but the group had some recommendations, but one of the ones that they all agreed on, which is something we should consider, is that if we're going to touch the TAT, that we should touch it once and for all and do it the right way. And we have great data here, provided by a working group that spent lots of hours, lots of time, looking into a better way to do this. And by us doing it in a way that everyone understands and that there's fair informational hearings everywhere, I think we'll have a better outcome. I think we're going in the right direction, but people are just misunderstanding. And it took me awhile to read this and understand it clearly. But they came up with a fair, predictable, simple and flexible way to touch the TAT.



"And I'll just read the one recommendation that they unanimously agreed on. That they would have the Tourism Special Fund allocation would begin at \$82 million, and that it would be indexed to the CPI, the Consumer Price Index, which means that it would fluctuate dependent on how much dollars come in. It would leave the Turtle Bay, the Convention Center, the Special Land Development Fund as is, and that it would divide the remaining amounts of the TAT 55% for the State, 45% for the counties.

"And when we got a report from the Department of Business, Economic Development & Tourism, they said that in 2015 we brought in \$435 million in TAT. And so when they accounted that out, that ended up that the City and County of Honolulu got \$45 million, Hawaii got \$19 million, Maui \$23 million, Kauai \$14 million, and that was the total of the \$103 cap that was given there.

"So the reason why we're proposing this amendment is because I feel like we're just at the very crest of really understanding this, and we have this data that just barely came out, that we should consider when we touch the TAT that it be distributed in a fair way. I think the \$103 cap, per the findings in this report, ended up being less than how much money is spent statewide on tourism, so not just for our county but statewide. So statewide, \$245 million is spent on, which means that the cap is below the amount that we're spending on it. Not just for all the outer islands, for our island too. And so the way that this goes, it would distribute it in such a way that all the counties would get a fair share, according to the findings of it.

"Now, we don't need to do it exactly this way, obviously the Legislature has discretion, but it just, it brings me to think that as we touch a TAT tax that for 2015 brought in \$31 million roughly on the outer islands and it brought in \$344 million on this island, that we should study it carefully. We're talking about a \$2.4 billion tax increase that we're voting on, and we should do it carefully, because these are taxpayer dollars, and they're not just our dollars but they're dollars of every single person that lives throughout the State of Hawaii, and that's why we've offered the following floor amendment. Thank you."

Representative Tupola referenced the State-County Functions Working Group Report, prepared by the Auditor in December 2015. The cover image is included here for reference. The entire report can be found on the Auditor's website at:

<http://files.hawaii.gov/auditor/Reports/2015/SCFWGFinalReport.pdf>



## State-County Functions Working Group Report

A Report to the  
Governor and the  
Legislature of the  
State of Hawai'i

Prepared by  
The Auditor,  
State of Hawai'i  
and  
Belt Collins Hawaii LLC

December 2015

**THE AUDITOR**  
STATE OF HAWAII

Representative Ward rose to speak in support of the proposed floor amendment, stating:

"Thank you, Mr. Speaker. In support. Mr. Speaker, this is called the carve-out amendment for the neighbor islands, and again, it shouldn't be the minority, who is from Oahu, it should be—"

Representative Takumi rose to a point of order, stating:

"Mr. Speaker, point of order. Thank you very much, Mr. Speaker. I'm trying to be patient sitting here and listening to my good friend, the Representative from Hawaii Kai, he has brought this up on every measure before us. By impugning the motives of the majority, in essence what he's saying is that the majority should have done this, instead it's the minority introducing these floor amendments. He's implying, in fact insinuating, that the motives behind the Majority Caucus by not including the language in these amendments is somehow less than good. And I wish he would keep his personal opinions to himself. And if you can remind him, gently or otherwise, to do that. Thank you."

At 11:54 o'clock a.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 11:58 o'clock a.m.

Representative Ward continued, stating:

"Thank you, Mr. Speaker. As I was saying, this is a carve-out. And for any neighbor island of less than 500,000 people, they will not be subject to the TAT. Now, the foundation of this amendment has its origins, and it's a derivative of Wednesday night, when all of the county council chairs and the mayors came before the Finance Committee and the Transportation Committee. Anyone who was at the hearing or even saw a few sound bites, the message that was loud and clear was, please don't include the neighbor islands as the TAT. If you want it, let it go to Oahu.

"This is basically saying what the mayors and the county councils have said. They have said it's unfair. And then I know there was a few people who accused them of saying that it's your people who are going to pay it, no, it's the hotel industry, which by the way, the whole TAT itself is going to injure the structure of the economy. It's going to injure the structure of our economy because it's going to make us less competitive.

"In that hearing, it was where, if we get less competitive, they're going to go to Cancun, they're going to go to other places in Thailand, and there's a certain level by which you can do it. And if anybody needs a strong economy, it's the neighbor islands, where the unemployment rates are the highest, Mr. Speaker.

"So, the message was, we don't want the TAT. This is a simple way of saying, if you're less than 500,000, you don't have to pay it. It's a very simple one, it's clear-cut. And again, Mr. Speaker, I don't want to impugn the motives of anybody, but I would prefer having not introduce any of these amendments.

"But because I've been listening and seeing and going to the hearings, it's imperative that we consider this. It's imperative that we consider the neighbor islands. It's imperative that we hear them. They even wanted to go back to some neighbor island hearings. They wanted, well why didn't you vet that with us, why are we finding out two days ahead of time that suddenly we've got to vote on our whole TAT and the structure of our economy and the amount of information? We kind of short-circuit them in the process, we did not socialize it, we did not give them a heads up. So they were saying, no TAT. And now I understand that we cannot extend this session. Because it's a \$2.4 billion issue, we should be staying here until the neighbor islands and all of the other issues that are controversial are resolved, Mr. Speaker.

"Having said that, I think this amendment is, for the affirmative, the best way to go. Thank you."

Representative San Buenaventura rose to speak in support of the proposed floor amendment, stating:

"Thank you, Mr. Speaker. I stand in support of this amendment. Not necessarily for the reasons that the prior speaker has talked about, but I have had emails from my constituents, and I didn't quite realize how the retirees in my district use their houses as transient accommodations, and that sometimes they eat the TAT to ensure that their prices are competitive.

"I suspect this bill is going to pass out, but I will be introducing a bill in 2018 specifically for the neighbor islands, the legal, the people who actually pay the TAT for B&Bs, if they are unable to pass on the TAT to the tourist, then I am, for those reasons I stand in support. Thank you."

Representative Ing rose to speak in support of the proposed floor amendment, stating:

"In support."

Representative Luke rose to speak in opposition to the proposed floor amendment, stating:

"Thank you, in opposition. The fatal flaw for this bill is, because we didn't price it out, and because it's not increasing the TAT amount for Oahu to at least make up for the difference or adding the GET, what we're going to end up with is a bill that doesn't provide sufficient funds. The whole rail discussion was about providing sufficient funds to satisfy the FTA and to assure that the project continues on to Ala Moana. This bill would guarantee that it doesn't provide enough funds for HART and the City and County of Honolulu. And because of that, they will not be able to satisfy the requirements of the FTA.

"I do hear the concerns brought up by the neighbor islands. And I'd think a lot of the neighbor island legislators here want to be supportive of the neighbor islands, and it's something that we definitely need to continue to have that discussion with our city councilmembers, with our residents on the neighbor islands.

"And one of the things that I did appreciate is something that Councilmember Mike White stated, and I think he's sitting up there. And he questioned that some of the taxes that are being collected, not by hotels but other organizations, are not paying TAT, are not paying GET, so he wanted to continue to work on those things during the interim and to ensure that the State and the counties get their fair share. And so I do want to recognize.

"And they did bring up terrific points, and my apologies to them for feeling that, okay we are under some time constraint to deal with this rail issue, but I do think that the issue with the neighbor islands is a continuing issue, and we need to ensure that the neighbor islands get their fair share, especially if we are the ones saying that, for the City and County of Honolulu, we're ensuring that there's a 8% growth, I do think we need to continue to look at equity for the neighbor islands. So I do appreciate the councilmembers who were there, like Mike White and Valerie and Stacy, and for them to be here and listen to this. And so we do want to see you as a partner and continue to work through these issues. So, thank you very much."

Representative Thielen rose to speak in support of the proposed floor amendment, stating:

"Thank you, Mr. Speaker. Still in opposition to the underlying rail tax bill, but in support of Floor Amendment Number 4. A couple of things. By having less money and maybe not being able to go to Ala Moana with the overhead route, we then get the breather by stopping it at Middle Street. There are two FTA letters that indicate alternatives are acceptable, because of finances, that alternative solutions are acceptable.

"The other thing I would like to say, if we carve out the neighbor islands, think of the side effect that would have. What a great marketing tool for the neighbor islands to say, come visit us, we cost less. Oahu is out priced, out of sight, because of the tax, the rail tax. Neighbor islands don't have that problem, that burden, that situation. So as a marketing tool, they could entice more people to go to neighbor islands to visit there.

"The other thing is, if there is a shortfall of money, I ask you all to think back under the Thatcher Administration in England, the Chunnel from

England to France, France to England, was done entirely with private sector funding. What's wrong with our city administration, why can't the Mayor bring in some people to be part of that private sector funding for this project? I don't think he's made the effort, because it's been so much easier for him to come over to say, give me the money, give me the tax money. And I think we should give him a resounding no. Thank you."

Representative Quinlan rose, stating:

"I just want to clarify, Mr. Speaker, that just because someone is paying the TAT, that does not necessarily follow that they are in full legal compliance with all county statutes. Point of clarification."

Representative Woodson rose in support of the proposed floor amendment and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Woodson's written remarks are as follows:

"In this type of political environment, perhaps it would have been more ideal to limit that TAT to Oahu Island, but at the same time, we are one state and should be mindful of helping each other out."

Representative Tokioka rose to speak in support of the proposed floor amendment, stating:

"In support, and I'd like to thank the Republican Minority Caucus for introducing this floor amendment. First of all, I supported on this floor on *sine die* an extension of the GET. I would rather not vote for a bill that had a TAT included statewide, because I have many friends in the hotel industry, many friends in the trade industry. I appreciate what the county councils have done and the mayors have done. I appreciate what the Chair of the Honolulu City Council and the members and Mayor Caldwell for coming and supporting the neighbor islands and not taxing the neighbor islands with this, on this underlying bill.

"But Mr. Speaker, we had something in place. We had something in place, the Senate, when they adjourned, they had a vehicle in place. And to come back and vote on something like this I think puts a lot of spotlight on people from the neighbor islands, and I understand and I appreciate every single member who is here from Oahu that supports the neighbor islands in other issues. But the spotlight on this issue is on what we vote on today. And if it is to the neighbor islands that we're going to support the additional TAT, then some people may get hurt. And enough people got hurt on this bill already, Mr. Speaker. So thank you for the opportunity to express my opinion, and I support this floor amendment that does not tax the TAT to the neighbor islands. Thank you."

Representative Kong rose in support of the proposed floor amendment and asked that the remarks of Representative Tokioka be entered into the Journal as his own, and the Chair "so ordered." (By reference only.)

Representative Aquino rose to speak in opposition to the proposed floor amendment, stating:

"Thank you, Mr. Speaker. In opposition to FA 4. At this time, DOTAX does not have the approximate TAT Oahu-only data. Because of this, we don't have the calculation of the cost estimate of Oahu-only, which will make SB 4 financially unsound, and this could raise flags for the FTA. So just wanted to make that point. *Mahalo.*"

Representative Ward rose to respond, stating:

"Mr. Speaker, I have a compliment and a rebuttal. First, I want to compliment the Finance Chair for complimenting Mike White who has really done some leg work in terms of how we can save money by going after TAT on the table, of which I will speak to much later on the final reading of this bill. I also want to compliment the Mayor for staying there for the whole five, six hours that we spent on the hearing on Wednesday. It was a long, long day.

"But I would like to rebut the fact that the good lady, Finance Chair, 10 minutes, 15 minutes ago said that, hey there's too much money in this bill,

you're wrong to want to do private-public sector to add on to what otherwise is too generous. But then she turned around and said, well we've got to give sufficient funding. Mr. Speaker, we have one mouth but we have two sides here that are being spoken of. One on the one hand, it's not enough—"

Representative Quinlan rose to a point of order, stating:

"Mr. Speaker, point of order. I think that the Representative from Hawaii Kai is mischaracterizing—"

The Chair addressed Representative Ward, stating:

"Representative Ward, please confine your remarks to the floor amendment."

Representative Ward continued, stating:

"Mr. Speaker, I'm only trying to point out to the body that on the one hand, we're talking about we're having too much money, and on the other hand we don't have sufficient funding. Mr. Speaker, that's a contradiction. And to say that, as a way of defeating this, I think is unfair, and that's why I bring it up. And that's what the rebuttal is, that it's not true that this is the way that has been constructed."

Representative Luke rose to respond, stating:

"Since somebody called me a hypocrite, I feel that I need to retort. So what I said was not that we had sufficient funds, we would have surplus if we passed their floor amendment. So if we passed their floor amendment and put a cap, then we will ensure that there will be more than enough funds. So clearly instead of the Hawaii Kai Representative putting words in somebody else's mouth and calling me a hypocrite, maybe he needs to listen better about what people are saying."

Representative Tupola rose to respond, stating:

"Thank you, Mr. Speaker. I only have comments about the floor amendment. I just wanted to share my final thoughts on why this is important is because if this bill doesn't have enough funding and if we might be threatened to not get federal funding, and we know that what they really needed was money on the back end, because that's what we were going to do originally, the GE tax extension, but we front-loaded it, I get that part. What I'm trying to say is, because we know that they have the money, then why not wait so we can have hearings and allow them time to voice their concerns and hear what's going on. That's it. Because if we eventually include them into it, maybe yeah, maybe that would be a good idea."

"But maybe we should give them that chance, because we believe in access, we believe that everybody should have access to this body. If somebody can't speak a language, we give them a ballot translated. If somebody can't hear, we give them an interpreter. If somebody can't reach, if they can't testify, if they can't be a part of the process, I believe that we do have the chance to allow them to be a part of it. And that's what I'm asking for, is that if we consider that, as a body, that we allow this access to them, so that there can be an understanding, so that everyone can come to the understanding. You yourself, Mr. Speaker, spoke about unity, I heard you. I actually understood that. That we shouldn't pit outer islands versus us. We shouldn't be in this huge fight over this huge rail debacle."

"But what I'm asking is, why don't we take the time to do it the right way? Why don't we cut them out now until they can get the chance to get on the same page, because it was more than obvious that there was a lot of animosity, a lot of hate, a lot of anger, a lot of different Representatives that are having mixed feelings about it because of that small portion of it. That's my ask, and why we proposed this amendment. Thank you, Mr. Speaker."

Representative Ing rose to respond, stating:

"Still in support. I just wanted to clarify one thing. According to DOTAX, officially, Oahu contributes 48.1% to the TAT and neighbor islands 51.9%."

The motion that Floor Amendment No. 4, amending S.B. No. 4, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT," be adopted,

was put to vote by the Chair and upon a voice vote, failed to carry, with Representatives Har, Hashem, Matsumoto and Nishimoto being excused.

(Main Motion)

Representative Quinlan rose in opposition to the measure and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Quinlan's written remarks are as follows:

"The rail project has failed us on so many levels. Costs have ballooned as a result of chronic mismanagement, creating an even greater tax burden on our working class. It has pitted our counties against the State, politicians against each other, neighbor against neighbor. This project has dented our esteem in the eyes of the Federal Government, and damaged our reputation as a body politic. If built to Ala Moana, our mass transit ridership will see a measly 2% or less increase in ridership, with very little to show in the way of traffic reduction. We have fallen victim to the classic sunk cost fallacy, throwing good money after bad. For these reasons and more, I urge the members to vote no on SB 4 and any additional funding for this out of control project."

Representative Say rose in opposition to the measure and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Say's written remarks are as follows:

"Mr. Speaker, I rise in OPPOSITION to Senate Bill No. 4, Relating to Government."

"At the outset, I want to clarify that I am opposed to the financing mechanism proposed in Senate Bill No. 4. In fact, I have consistently been a supporter of the rail project, as evidenced by my support of Senate Bill No. 1183 (Relating to Taxation.), Senate Conference Draft 2, which would have extended the general excise tax Surcharge (GET) to 2037."

"Why don't we just extend the GET for another 10 years and not increase the TAT statewide by 1%? Because Senate Bill No. 4 would incorporate both taxes. I cannot support this bill."

"Senate Bill No. 4 has split our community and *'ohana* into groups who either support the TAT and those who oppose it. It has also split our neighbor island residents against the Oahu residents."

"We have lost sight that Oahu was the only county that enacted the 0.5% surcharge in the GET for mass transit. The State Legislature DID NOT increase the GET."

"Be careful of Senate Bill No. 4, because we are NOW enacting a law that will require the State to be the accountable entity for all revenue collection and fiscal expenditure of all rail contracts. It will be the State and not the county that will be held accountable for the completion of the rail project to Ala Moana. Will the rail project become H-4 for the State? Senate Bill No. 4 will designate all present and future legislators as the developer of H-4."

"I question the wisdom of usurping state powers verses home rule for the counties regarding county projects. Can the State take over a county project within the parameter of the city charter? I don't know the answer. I ask whether any of my colleagues know the answer to this question?"

"Regarding the procurement process, watch out when we enact a law that may be very burdensome and time-consuming to the payment process such as with invoices for supplies, materials, equipment and services. This bill will burden the Department of Accounting and General Services—for certification of the dollar amount—and the Department of Budget and Finance—for cutting the checks for all vendors who are certified by DAGS for payment."

"Then there is the legislative intervention of requiring audits of all contracts. Do we have the staffing and the professional knowledge that such audits will require? Is it prudent to leave it up to a third-party contractor for these requirements?"

"Senate Bill No. 4 does not fulfill the State's obligation of fulfilling the \$2.37 billion bailout of the H-4 project, and that is a major concern for me.

"In closing, the concern mentioned has led me to vote 'NO' and I urge my fellow colleagues to vote the same."

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

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

"Mr. Speaker, I stand in strong support. I'd like permission to insert comments into the Journal as well. I am not going to speak very long, but I'd like to thank you, Mr. Speaker, for bringing transportation equity to the west side.

"You were faced with a very complicated situation, Mr. Speaker, a lot of challenges, it wasn't an ideal situation. A lot of noise, theft, fraud, abuse, Korean businessmen. Oh my head is spinning. Yet I see no evidence of a \$100 bribe, nothing has been brought to our attention. We have a project, we are over budget. I'm going to talk about that in a moment.

"Mr. Speaker, there is a learning curve. The biggest project we ever built maybe was a bridge over the Kalihi stream. This is huge. I'd like to point out that H-3, by the time it was finished, was 17 times the original cost. Seventeen times the original cost. So there's a learning curve to this.

"But Mr. Speaker, when you make a mistake up here or when I think you're wrong, I hammer the heck out of you, and you know that. I've been doing it for quite some time. But I want to salute you and your team, because you took a tough situation and you governed. You governed.

"It's easy to say, oh, no. I come from a party where 85% of my members don't want this, which makes me about as popular as a dirty sock in your Caesar salad at a Republican event. But the people on the west side do want it.

"When I see these people out there with a sign that says, no more, no, no more. Okay, so I sit down and talk to them. What is your solution? Well, just no more, that's it, the city's gotta get their act together, gotta get their act together. Well, what does that mean? Just get their act together. Okay, well we're three quarters of the way done, what do we do? No more.

"Okay, so I ask LRB, what's it going to cost to shut it down? Legislative Reference Bureau, our CBO right, nonpartisan, nonbiased, \$3.7 billion to tear it down and do away with all the encumbrments. And that data will be inserted in the Journal, that report from LRB, \$3.7 billion if we do nothing. \$3.7 billion to do nothing. So we have to do something. And the majority did something, and I salute you guys for doing that.

"I've never voted for taxes or fees, you know that, Mr. Speaker. But this thing, I can see it, I can see the concrete, I can see what we're building, I can feel it, I can touch it. And some people say it's ugly. Well you know what, if you change the way you look at things, the things you look at change. And out on the west side, it's not ugly.

"One of the things I wanted to point out, Mr. Speaker, was the lawsuits. We have a very prominent attorney running around town accusing the city of fraud. Now he's an attorney, he's an officer of the courts. Says it's fraud, it's fraud. Why? Well, they're behind schedule and over budget. These lawsuits cost the city \$6 million in direct legal costs. Again, this is from LRB, I asked them how much did these lawsuits cost. \$6 million in direct legal costs. They halted all work and property acquisition for 13 months, that's from the LRB report, 13 months. And as a result, resulted in \$172 million in additional rail project costs.

"So the same guy running around saying the city is over budget, behind schedule, is the same guy suing them, causing them to be over budget and behind schedule. That has been a real thorn in my shoe, when I see these guys get on TV and they talk about fraud, waste and abuse."

Representative LoPresti rose to yield his time, and the Chair "so ordered."

Representative McDermott continued, stating:

"Professor, I am humbled, sir. Mr. Speaker, I sent the Governor a letter in June asking for an audit. To extend the GET for 10 years, to order a comprehensive financial audit. Things you guys are doing, you're auditing. Establish accountability and set a plan for contractors, market ancillary development rights. Things that you guys are already doing.

"The point is, Mr. Speaker, I think you've taken the best that you could. It's not perfect. Nobody wants to see the TAT raised, nobody wants to see the GET extended. But you govern, Mr. Speaker, you govern. You stood up and you governed and you did it right. And from one of your biggest critics from over the years, and you know that, Mr. Speaker, we're smiling at each other, I want to salute you and tell you, you guys did a good job. Thank you."

Representative McDermott submitted the following:

It could cost taxpayers \$3.7 billion to stop rail

*Representative McDermott responds to anti-rail activists*

According to McDermott, "a recent opinion piece entitled '*Rail will never be as practical as roadways*,' sounds very much like the defense of horses over automobiles waged 100 years earlier. Their 'brave choice' alternatives to completion of the rail project are tin-foil hat schemes. Hawaii simply cannot continue to expand using urban design based on more roads, highways, and more low-density urban sprawl. It is untenable, environmentally disastrous and just plain stupid."

The anti-rail op-ed lauds the building of H-3 and cite the reduced local tax load because of its 90% Federal funding. They fail to mention that it was these same anti-rail activists who fought just as hard against rail in the '80's when 80% Federal funding was on the table. Any guesses as to how much that missed opportunity ultimately cost the taxpayers?

THE REAL COST OF OBSTRUCTING RAIL

Rep. McDermott asked LRB (a non-political research arm of the Hawaii State Legislature) to compile the estimated costs to the Hawaii taxpayers to grant the wish of our staunch anti-rail activists and simply end the project.

Remaining contract obligations	\$150,000,000
Exposure for termination of existing contracts	\$1,800,000,000
Removal of existing structures and related contract exposure	\$265,000,000
Repayment of expenditures from Federal Transit Admin. Grant	\$767,000,000
Forfeiture of available FTA grant funds	\$783,000,000
<b>TOTAL</b>	<b>\$3,765,000,000</b>

That's a lot of money to ask from Hawaii's taxpayers for nothing.

I also asked LRB to provide the cost to Hawaii's taxpayers for the most recent failed lawsuit by anti-rail factions.

Additional Right of Way Costs	\$3,300,000
Litigation Costs	\$3,021,002
<b>TOTAL</b>	<b>\$6,321,002</b>

It is estimated that various lawsuits by the tin foil hat guys, cost the City over \$200 million in non performance fees, plus over a year in construction time; these same folks then complain it is over budget and behind schedule.

McDermott added, "our other costs are harder to measure, but significantly higher. We would lose out on a vision for Honolulu that a viable urban transit system would bring about. Imagine the redevelopment of our urban corridor that encourages walkable mixed-use communities, affordable housing and a sustainable lifestyle designed to make use of public transportation options. The positive economic impact of this type of urban renaissance is huge; and lasting."

By contrast the most recent anti-rail scheme only offer the taxpayers a phantom rebate by claiming there is a "brave choice" to salvage some of our existing \$2.7 investment and convert the rail guideways to use by buses and ending the system Middle Street. Their token concession to environmentalists is that "the vehicle fleet could be mostly electric in a few decades." There is no mention of the cost involved in implementing this pipe dream. Where are the costs of securing right-of-ways and constructing the onramps and off-ramps; not to mention the budget for litigation and a new EIS? Their "alternatives" remain nothing but smokescreens meant to obstruct and defeat this project.

"While they solemnly profess that "efforts to continue rail past the intermodal transit center at Middle Street is wasteful and irresponsible," the truth is exactly the opposite," said Rep. McDermott.

"While we need to restore trust and transparency to the management of this project, we have too much invested, it is too far along, and promises too much, to simply abandon it. We owe it to future generations of our residents to complete this transit system and provide a real transportation alternative that will keep Honolulu, livable and viable well into the future."

###

Dear Governor:

I'm writing to urge you to convene a Special Session of the Legislature immediately to deal with the issue of financing the rail project. We cannot wait any longer. The delay in establishing a sound financial basis for funding the completion of the system to Ala Moana is estimated to be costing taxpayers an additional \$15 million per month. In addition, failure to act now puts an additional \$800 million in Federal funds at risk.

There has been a complete lack of leadership and, indeed, a lack of urgency, on this issue. I feel strongly that it is your responsibility to convene a meeting now with yourself, Senator Kouchi and Representative Luke to negotiate an end to this impasse and forward your agreement on to the Legislature for approval.

Since no one else has provided a serious basis for discussion, let me propose the following plan as a means for resolving the issues of concern to both the Legislature and the public. Here are the basic points with more detail later in this letter.

1. Extend the GET for 10 years.
2. Order a Comprehensive Financial Audit
3. Conduct Regular Management Audits for HART
4. Establish an Accountability Incentive Plan for Contractors
5. Market Ancillary Development Rights to Private Investors
6. Provide the Public Continuous Online Financial Transparency

We are well beyond having to make the case for the economic and environmental benefits on completing the system. For the residents of West Oahu who have suffered through years of delays because of a failure of political will and leadership, it has become a question of transportation equity.

Governor Ige, it is time for you take a leadership role in resolving this crisis. Put the House and Senate leaders in a room with you, work out an agreement to extend the GET and call a Special Session of the Legislature to **get it done**.

Thanking you in advance for your prompt attention to this matter.

Sincerely,

Representative Bob McDermott

## Plan to Rescue Rail

### Immediately Extend the GET for 10 Years

The 10 year extension will provide the necessary financial base to complete the system to Ala Moana. Reduce the State's skim to 1%. Increase the food tax credit to offset the regressive impact.

### Order a Comprehensive Fiscal Audit

To restore public trust and confidence, it should be executed by the State Auditor and provide a detailed list of overspending and the respective causes. The goal is to implement procedures that ensure future financial statements are accurate and complete, and financial projections are conservative.

### Conduct a Regular Management Audit of Hart

It should be conducted by a private sector firm that has expertise in large public works projects and focus on business processes, organizational management, strategic planning and employee deployment.

### Establish an Accountability Incentive Plan for Contractors

In order to foster a culture of accountability, contractors shall be given a bonus if they finish ahead of time and/or under budget. They shall be penalized financially if they finish behind schedule. The cost of mistakes and misjudgments by contractors shall be borne by their E/O insurance carriers, not by the tax payer.

### Market Ancillary Development Rights to Private Investors

Public - Private partnerships can help generate additional revenue to support rail through the sale of development rights to a private entities that do not yet own the actual property within a Transit Oriented Development Zone. The concept is similar to the sale of "air rights" to a potential developer who has not yet secured a targeted property. This will provide the city income and a degree of control in the mix of development it wants to occur in certain zones

### Provide the Public Continuous Online Financial Transparency

HART shall publish the project financials on a monthly basis, along with a monthly press availability to update the public on progress of the project and all financial activity. It should aggressively promote data on Facebook and other online platforms.

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LEGISLATIVE REFERENCE BUREAU  
State of Hawaii  
State Capitol, Room 446  
415 S. Beretania Street  
Honolulu, Hawaii 96813

June 30, 2017

## MEMORANDUM

**TO:** Honorable Bob McDermott  
Representative, 40th District

**FROM:** Jordon Higa  
Research Attorney

**SUBJECT:** Honolulu High-Capacity Transit Corridor Project; Cost of *HonoluluTraffic.com v. Federal Transit Administration* Lawsuit

You have requested information regarding the case of *HonoluluTraffic.com v. Federal Transit Administration* ("HonoluluTraffic.com case"),<sup>1</sup> which concerned the Honolulu High-Capacity Transit Corridor Project ("rail project"). Specifically, you wanted to know the direct and indirect costs of this lawsuit, including information on any time delays incurred due to the lawsuit. In researching this issue, we reviewed the rail project's Recovery Plan<sup>2</sup> and the procedural history of the *HonoluluTraffic.com case*. We also contacted the Honolulu Authority for Rapid Transportation (HART) for information on the specific costs stemming from this lawsuit. Based on this research, we present the following information for your consideration.

### Background of the *HonoluluTraffic.com case*

The plaintiffs in the *HonoluluTraffic.com case* claimed that the environmental impact statement for the rail project did not adequately consider alternatives, particularly in reference to the National Environmental Protection Act and cultural and historical sites.<sup>3</sup> Ruling in favor of the

<sup>1</sup> *HonoluluTraffic.com v. Federal Transit Administration*, 742 F.3d 1222 (9th Cir. 2014). You specifically requested information on Randall Roth's lawsuit against the rail project. Mr. Roth was a member of the HonoluluTraffic.com group that initiated this lawsuit. Mr. Roth also joined in the lawsuit as a co-plaintiff. Rick Daysog, *Ninth Circuit Hearing Rail Lawsuit Today*, Hawaii News Now, <http://www.hawaiinewsnow.com/story/23148220/ninth-circuit-to-review-rail-lawsuit>.

<sup>2</sup> Honolulu Rail Transit Project Recovery Plan ("Recovery Plan"), April 28, 2017, accessed on June 20, 2017, at <http://hartsdocs.honolulu.gov/docshare/dsweb/GetDocument-20510.20170428-hart-recovery-plan.pdf>.

<sup>3</sup> *Id.* at 20.

LRB 18-0021MH.doc

Honorable Bob McDermott

-2-

June 30, 2017

plaintiffs on three of their claims, the U.S. District Court for the District of Hawaii imposed an injunction that halted any further planning of the City Center segment<sup>4</sup> of the rail project and stopped all acquisition of real property for the project's right-of-way in downtown Honolulu.<sup>5</sup> The injunction was in effect from December 2012 through February 2014.<sup>6</sup>

### Costs and Time Delays Stemming from the *HonoluluTraffic.com case*

HART provided the Bureau with the following monetary costs resulting from the *HonoluluTraffic.com case*, including costs stemming from the injunction:<sup>7</sup>

Additional Right of Way Costs <sup>8</sup>	\$3,300,000
Litigation Costs <sup>9</sup>	\$3,021,002
Total Costs	\$6,321,002

You specifically requested information on costs due to non-performance payments to contractors as well as the indirect costs of delayed construction. HART noted that the injunction issued by the U.S. District Court applied only to the City Center segment of the rail project. Because there was no construction occurring in the City Center segment of the rail project at the time of the lawsuit, the project did not experience any costs relating to delayed construction or non-performance payments to construction contractors.

You also requested information on any time delays incurred due to the *HonoluluTraffic.com* lawsuit. As noted previously, the federal court's injunction halted all work and property acquisition for the City Center segment of the rail project for about **thirteen months**.<sup>10</sup>

### *Kaleikini v. Yoshioka*

HART emphasizes that there was a second, far more costly lawsuit being litigated within the state court system at the same time the *HonoluluTraffic.com case* was being litigated in the federal courts. In the case of *Kaleikini v. Yoshioka* ("Kaleikini case"),<sup>11</sup> the plaintiffs alleged that the City and County of Honolulu could not initiate construction on the West Oahu segment of the rail project without completing and gaining state approval of archaeological surveys for the *entire* twenty-mile project.<sup>12</sup> The *Kaleikini case* was ultimately appealed to the Hawaii Supreme Court, which ruled in

<sup>4</sup> Construction of the rail project is divided into four segments (from west to east): West Oahu/Farrington Highway Guideway, Kamehameha Highway Guideway, Airport Section Guideway, and City Segment Guideway. *See id.* at 18.

<sup>5</sup> *Id.* at 21. *See also id.* at 241 (explaining that the lawsuit stopped "all planning" for the City Center segment for about 13 months).

<sup>6</sup> *HonoluluTraffic.com v. Federal Transit Administration*, Civil No. 11-0307, 2014 WL 692891 (D. Haw. 2014) at 7.

<sup>7</sup> E-mail from Pat Lee, community relations contractor, HART, to author (June 21, 2017, 15:40 HST) (on file with author).

<sup>8</sup> According to HART, additional right of way costs are the increased costs of land acquisitions for the rail project due to delays caused by the *HonoluluTraffic.com* injunction.

<sup>9</sup> Litigation costs include costs for outside attorneys and experts retained for the *HonoluluTraffic.com* lawsuit.

<sup>10</sup> *Supra* notes 6.

<sup>11</sup> *Kaleikini v. Yoshioka*, 128 Hawaii 53, 283 P.3d 60 (2012).

<sup>12</sup> Recovery plan, *supra* note 2, at 20.

LRB 18-0021MH.doc

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Honorable Bob McDermott -3- June 30, 2017

favor of the plaintiff and forced a thirteen-month cessation of construction activities for the rail project to allow the remaining archaeological surveys to be completed and approved by the State.<sup>13</sup> According to HART, this ruling halted all construction on the West Oahu/Farrington Highway Guideway, the Kamehameha Highway Guideway, and the Maintenance and Storage Facility,<sup>14</sup> and resulted in \$172 million in additional costs for the rail project.<sup>15</sup>

Should you wish to contact HART directly, you may contact Bill Brennan, Director of Communications, at [bbrennan@honolulu.gov](mailto:bbrennan@honolulu.gov), or Joyce Oliveira, Government Affairs Officer, at [joliveira@honolulu.gov](mailto:joliveira@honolulu.gov).

If you have any questions or require further assistance, please contact me by phone at 587-0666 or by email at [j.higa@capitol.hawaii.gov](mailto:j.higa@capitol.hawaii.gov).

APPROVED:

Charlotte A. Carter-Yamauchi  
Director

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<sup>13</sup> *Id.*  
<sup>14</sup> E-mail from Pat Lee, *supra* note 7.  
<sup>15</sup> E-mail from Pat Lee, community relations contractor, HART, to author (June 27, 2017, 10:55 HST) (on file with author).

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June 21, 2017

**MEMORANDUM**

**TO:** Honorable Bob McDermott  
Representative, 40th District  
**FROM:** Johnny Brannon *JB*  
Research Attorney  
**SUBJECT:** Honolulu Rail Transit Project Termination Costs

You requested information regarding the potential cost of halting the Honolulu Rail Transit Project and dismantling all project structures.

In researching this issue for you, the Bureau contacted the Honolulu Authority for Rapid Transportation (HART) regarding potential costs that could be associated with halting and dismantling the project.

In providing the requested information to the Bureau, HART cautioned that its figures represent rounded approximations of costs. It also noted that the figures provided do not necessarily include all actual or potential costs related to the project, some of which are unknown or unknowable at this time. For example, the costs associated with removing existing project structures may only be estimated, as no actual contracts to perform such work have been awarded or sought. Also, the figures do not include all expenditures for relevant government staff time from the project's inception, which, to date, have not been comprehensively compiled for all applicable city, state, and federal agencies. Nor do HART's figures include potential costs of any litigation that could be initiated in relation to private development projects that were begun in reliance upon representations that the rail project would be completed.

Finally, it should be noted that the figures do not include costs related to the development or execution of any alternative mass transit project intended to replace the rail transit project.

Honorable Bob McDermott -2- June 21, 2017

Accordingly, HART provided the Bureau with the following costs of halting and dismantling the Honolulu Rail Transit Project:

Total amount expended for construction to date (approximate)	\$2,700,000,000
Remaining contract obligations (approximate)	\$150,000,000
Exposure for termination of existing contracts (approximate)	\$1,800,000,000
Removal of existing structures and related contract exposure (estimate)	\$265,000,000
Repayment of expenditures from Federal Transit Administration grant	\$767,000,000
Forfeiture of available Federal Transit Administration grant funds	\$783,000,000

Should you wish to contact the Honolulu Authority for Rapid Transportation directly, Director of Communications Bill Brennan may be reached at 768-6197 or [bbrennan@honolulu.gov](mailto:bbrennan@honolulu.gov).

If you require further assistance, I may be reached at 587-0666 or [j.brannon@capitol.hawaii.gov](mailto:j.brannon@capitol.hawaii.gov).

APPROVED:

Charlotte A. Carter-Yamauchi  
Director

jl  
Enc.

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June 28, 2017

**MEMORANDUM**

**TO:** Honorable Bob McDermott  
Representative, 40th District  
**FROM:** Jacqueline Baker  
Research Attorney  
**SUBJECT:** Environmental Benefits of the Rail Transit

You requested information regarding the environmental benefits of the Honolulu High-Capacity Transit Corridor Project ("rail transit system") once completed. In addition, you specifically asked how many tons of carbon dioxide emissions are expected to be reduced due to ridership of the rail transit system. In researching this issue for you, the Bureau contacted the Honolulu Authority for Rapid Transportation (HART) and reviewed the Final Environmental Impact Statement (FEIS)<sup>1</sup> that was prepared for the rail transit system.

Accordingly, the Bureau cautions that the benefits described below are those anticipated by HART and the project FEIS, and may not constitute an exhaustive list of environmental benefits.

Accordingly, the anticipated environmental benefits of the rail transit system are as follows:

**(1) A decrease in air pollutants from transportation sources on Oahu**

Air pollutants that can be traced principally to motor vehicles are relevant in evaluating the rail transit system's impact on regional air quality.<sup>2</sup> These pollutants include carbon monoxide (CO), volatile organic compounds (VOC), nitrogen oxides (NO<sub>x</sub>), particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>),

<sup>1</sup> Final Environmental Impact Statement ("FEIS"), June 2010, accessed on June 22, 2017, at <http://harddocs.honolulu.gov/docushare/dsweb/View/Collection-594>.  
<sup>2</sup> FEIS, *supra* note 1, at 4-111. National Ambient Air Quality Standards (NAAQS) have been established for six major air pollutants: carbon monoxide (CO), nitrogen dioxide (NO<sub>2</sub>), ozone (O<sub>3</sub>), particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>), sulfur dioxide (SO<sub>2</sub>), and lead (Pb). In addition to these criteria pollutants, the federal Environmental Protection Agency (EPA) regulates air toxics. Toxic air pollutants are those known or suspected to cause cancer or other serious health effects. The EPA has identified 21 Mobile Source Air Toxics (MSAT). FEIS, *supra* note 1, at 4-110.

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Honorable Bob McDermott

-2-

June 28, 2017

and mobile source air toxins (MSATs).<sup>3</sup> The rail transit system is predicted to result in a 4% reduction in vehicle miles travelled (VMTs), which is predicted to result in pollution reductions ranging from 3.9% to 4.6% when compared to the alternative of not building the rail transit system.<sup>4</sup> The anticipated reduction in daily emissions of each pollutant is as follows:<sup>5</sup>

- CO = 3.9%
- VOC = 4.6%
- NO<sub>x</sub> = 4.0%
- PM<sub>10</sub> = 4.3%
- PM<sub>2.5</sub> = 4.6%

In addition, the rail transit system is projected to result in a decrease on Oahu of other greenhouse gas emissions from transportation sources, such as carbon dioxide (CO<sub>2</sub>),<sup>6</sup> by providing a clean-energy alternative to driving.<sup>7</sup> On a national scale, transportation accounts for 28% of greenhouse gas emissions, and 64% of these emissions come from cars, SUVs, and pickups.<sup>8</sup> Electric-powered rail technologies, such as the planned rail transit system, produce approximately 75% fewer greenhouse gas emissions per passenger mile than private automobiles.<sup>9</sup> Assuming that all electricity used to operate the rail transit system is generated from the combustion of oil,<sup>10</sup> the daily energy savings are expected to result in a daily reduction in greenhouse gas emissions of approximately 171

<sup>3</sup> FEIS, *supra* note 1, at 4-111.

<sup>4</sup> FEIS, *supra* note 1, at 4-112.

<sup>5</sup> FEIS, *supra* note 1, at 4-112. It should be noted that if the electricity used to operate the rail transit system is generated by combustion, this may result in the production of additional emissions. HART anticipates that these emissions will be offset in whole or in part by the reductions generated by a decrease in the miles travelled by vehicles. In addition, power plant emissions may be more easily controlled than emissions produced from individual automobiles.

<sup>6</sup> See generally CO2meter.com, CO2 Measurement Specialists, CO and CO2 - What's the difference?, accessed on June 22, 2017, at <https://www.co2meter.com/blogs/news/1209952-co-and-co2-whats-the-difference>; GreenHouse Gas Online, About Carbon dioxide, accessed on June 22, 2017, at <http://www.ghgonline.org/aboutcarbon dioxide.htm>; GreenHouse Gas Online, Other Indirect Greenhouse Gasses - Carbon monoxide, accessed on June 22, 2017, at <http://www.ghgonline.org/otherco.htm>. Carbon dioxide (CO<sub>2</sub>) is a common, naturally occurring gas required for all plant and animal life. CO<sub>2</sub> is a natural byproduct of human and animal respiration, fermentation, chemical reactions, and combustion of fossil fuels and wood. CO<sub>2</sub> is arguably the most commonly known greenhouse gas, and human activity, such as the burning of fossil fuels, is the largest contributor to CO<sub>2</sub> in the atmosphere. Carbon monoxide (CO), on the other hand, does not occur naturally in the atmosphere. It is the result of oxygen-starved combustion of fuel. In addition, CO is considered to be an indirect greenhouse gas in that CO by itself is a very weak direct greenhouse gas but it has important indirect effects on global warming due to its chemical reaction with hydroxyl radicals in the atmosphere. Hydroxyl radicals help to reduce the lifetimes of strong greenhouse gases and CO reduces the abundance of hydroxyl radicals. Thus, CO indirectly increases the global warming potential of other greenhouse gases.

<sup>7</sup> FEIS, *supra* note 1, at 4-112; Honolulu Authority for Rapid Transportation, Build, Sustainability ("Sustainability"), accessed on June 22, 2017, at <http://www.honolulutransit.org>.

<sup>8</sup> Sustainability, *supra* note 7.

<sup>9</sup> *Id.*

<sup>10</sup> This assumption can be made "since the majority of the electricity generated on Oahu is through the combustion of fuel oil". FEIS, *supra* note 1, at 4-228.

LBB 18-001081.doc

Honorable Bob McDermott

-3-

June 28, 2017

metric tons of CO<sub>2</sub>.<sup>11</sup> Using an annualization factor of 308, there will be an annual reduction of approximately 52,700 metric tons of CO<sub>2</sub>.<sup>12</sup> Using an updated annualization factor of 327.19,<sup>13</sup> this would result in an annual reduction of 55,949 metric tons of CO<sub>2</sub> once the rail transit system is completed. Additionally, the rail transit system is expected to become greener as Hawaii continues moving toward the goal of 100 percent clean energy by 2045 and the percentage of renewable energy produced increases.<sup>14</sup>

## (2) A general reduction in daily transportation energy demand

Transit-oriented development aims to reduce the dependence on private automobiles by developing high-density commercial and residential areas near rail transit stations and promoting the use of transit cars, walking, and cycling.<sup>15</sup> HART estimates that the completed rail system, in conjunction with transit-oriented development, will eliminate tens of thousands of car trips on Oahu every day.<sup>16</sup> Table 3-12 of the FEIS for the rail transit system presents estimated impacts on daily trips, as follows:<sup>17</sup>

- Total daily private automobile trips: In the year 2030, the estimated daily trips taken under a No Build Alternative is 3,003,400. For the same year, the estimated daily trips taken with construction of the rail transit system is 2,952,200. This results in an estimated decrease in daily private automobile trips of 51,200.
- Total daily transit trips: In the year 2030, the estimated daily trips taken using transit systems under a No Build Alternative is 226,300. For the same year, the estimated daily trips taken with construction of the rail system is 282,500. This results in an estimated increase in daily transit trips of 56,200.
- Total daily bicycle and walking trips: In the year 2030, the estimated daily trips taken under a No Build Alternative is 596,400. For the same year, the estimated

<sup>11</sup> *Id.*, at 4-113.

<sup>12</sup> Sustainability, *supra* note 7.

<sup>13</sup> The annualization factor is used to convert an average weekday estimate into an annual estimate, after taking weekends/holidays into account. The greenhouse gas emissions estimates are all based on the ridership patterns in [HART's] travel demand forecasting model (changes in daily trips, vehicle miles/hours traveled, etc...). For consistency, the Project took the annualization factor used to estimate ridership and other project data, and then applied it to the emissions estimates. The annualization factor of 308 was based on the relationship between weekday and weekend riders from an on-board bus survey, which was the best available data during the alternatives analysis phase in 2005-2006 when these technical studies were first initiated. The [Federal Transit Authority] later approved the use of annualization factors of 326 to 330 based on more recent data [updated annualization factors: vehicle revenue miles = 330.56; vehicle revenue hours = 327.49; passenger trips = 325.85], so these could be applied to the emissions estimates, if so desired." Email from Bill Brennan of the Honolulu Transit Team, dated June 14, 2017, on file with the Legislative Reference Bureau. The Bureau used the annualization factor for vehicle revenue hours (327.49) to calculate an updated annual reduction of CO<sub>2</sub> as that factor fell in the middle of the more recent Federal Transit Authority approved factors.

<sup>14</sup> Honolulu Authority for Rapid Transportation, Be Informed, Rail Facts, Frequently Asked Questions, Benefits, ("FAQs - Benefits") accessed on June 22, 2017, at <http://www.honolulutransit.org>.

<sup>15</sup> Sustainability, *supra* note 7.

<sup>16</sup> FAQs - Benefits, *supra* note 14.

<sup>17</sup> FEIS, *supra* note 1, at 3-29.

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Honorable Bob McDermott

-4-

June 28, 2017

daily trips taken with construction of the rail transit system is 595,300. This results in an estimated decrease in daily bicycle and walking trips of 1,100.

## (3) The preservation of open space, farmland, natural beauty, and critical environmental areas

Transit-oriented development concentrates and focuses development near the rail line and its rail stations and increases the convenience of urban amenities by creating high-density commercial and residential areas.<sup>18</sup> HART claims that the rail transit system, in conjunction with transit-oriented development, will promote the preservation of open space, farmland, natural beauty, and critical environmental areas, as it presents an alternative to dispersed development and sprawl into less developed areas of Oahu.<sup>19</sup>

## (4) Other purported environmental benefits

In addition to the foregoing benefits, HART claims that other environmental benefits of the rail transit system will include "a reduced need for new highways" and "less dependence on imported oil."<sup>20</sup> However, the Bureau was unable to find any discussion or analysis of these reported benefits in the FEIS and thus cannot provide specific data to support these claims.

Should you wish to contact the Honolulu Authority for Rapid Transportation you can reach the office at 768-6159 or by email at [info@honolulutransit.org](mailto:info@honolulutransit.org).<sup>21</sup>

If you have any questions or require further assistance, please contact me by phone at 587-0666 or by email at [ja.baker@capitol.hawaii.gov](mailto:ja.baker@capitol.hawaii.gov).

APPROVED:



Charlotte A. Carter-Yamauchi  
Director

jl  
Enc.

<sup>18</sup> Sustainability, *supra* note 7.

<sup>19</sup> Sustainability, *supra* note 7; Email from Bill Brennan of the Honolulu Transit Team, dated June 14, 2017, on file with the Legislative Reference Bureau.

<sup>20</sup> FAQs - Benefits, *supra* note 14.

<sup>21</sup> Bill Brennan of the Honolulu Authority for Rapid Transportation was the primary contact person for the purposes of this memo. However, the Bureau has learned that Mr. Brennan will be leaving HART and therefore has provided the contact information for the main office.

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

"Mr. Speaker, I rise in support, but with reservations. I have been one of the leading advocates, going back to 2005, for Honolulu's rail project, and I continue this day to be a strong advocate for Honolulu's rail. I believe it is the future for Honolulu. It is the vision of the future that will transform Honolulu's skyline and our community into a great city. It will spur our economy, give us transportation options, and through transit-oriented development and smart growth, it will transform underdeveloped and aging neighborhoods into vibrant, livable, walkable, mixed-use, mixed-income communities, and if done right, Mr. Speaker, result in affordable housing for local families.

"It is essential for the city to complete the rail line to Ala Moana, as planned, for the next generation of legislators to extend it to Manoa, yet there are significant problems. But I, and I believe this body, support the city and encourage them to learn from their past mistakes, address the issues, improve accountability, and move forward.

"But that being said, Mr. Speaker, it pains me to stand here today, to not give my unreserved, unqualified support for this bill. I wish I could, but my conscience plainly will not allow me to do so. This bill is not the best public policy. It intrudes upon county home rule, it inserts the State of Hawaii into the accountability of a county project, and introduces unnecessary risks that may lead to the demise of the very rail project that we are truly trying to support.

"The bill has us needlessly arguing with the city administration and the city council, and now the neighbor island leaders, neighbor island councils, about what adequate funding is to complete rail. It pits Oahu against neighbor islands, it increases a tax targeting one of the lifebloods of our economy, our visitor industry. It raises legal issues that may result in lawsuits that may halt the rail construction again. There are questions as to whether the Federal Transportation Administration will approve this plan.

"But all of these issues could have been avoided if we simply extended the existing GET surcharge of one half penny on one dollar. One half penny on one dollar. The GET surcharge is tried and true. We know that this is a reliable source of funding that has already been approved by the FTA. Extending the GET surcharge does not introduce new legal issues. And since this GET surcharge is only paid by Oahu taxpayers, there is no divisiveness between Oahu and the neighbor islands.

"With legislation, we can address any level, degree, of the general excise tax regressivity. We can do so through tax credits, exemptions, increasing the level of the food tax credit, renters' tax credit, and even low-income tax credit. We have the tools at our disposal. And I have been pleased, Mr. Speaker, to hear repeatedly through the various hearings that the House members recognize this is an issue that needs to be addressed."

Representative Say rose to yield his time, and the Chair "so ordered."

Representative Oshiro continued, stating:

"Thank you, Speaker Emeritus. But knowing all of this, Mr. Speaker, we have instead chosen to go down this path of using the statewide transient accommodations tax to help fund Honolulu's rail, which will cause a host of significant concerns. I will not address the adequacy of the funding issue. That has been covered repeatedly in both public and private forums. I will address the concerns related to public policy outside of that.

"First, using the GET surcharge is simple, clean, understandable and proven. In Hawaii, the state only gives property tax authority to the counties. In many, or perhaps most, other states, cities and counties have broader taxing authority. In 2005, the Legislature, when I was the Majority Leader and you were still present here as part of the Majority Caucus, Mr. Speaker, granted the counties the authority to impose an excise surcharge upon their constituents. This is straightforward because it is a county tax upon county taxpayers through the state general excise tax system. It is paid for by the county taxpayers for the benefit of the county's transportation needs. It was done through local government leaders and endorsed by local citizenry.

"Using the TAT is an entirely different matter. It is a state tax collected in all counties, and therein lies the problem. You see, neighbor islanders don't want to pay for Honolulu's rail project, and that's understood, elementary. They are arguing that the taxes paid by Honolulu residents have been benefiting neighbor islands. And while this may be true, it is important to clarify that state taxes collected from all counties pay for state government functions in all counties. The difference here, Mr. Speaker, is that we are increasing a state tax to pay for a Honolulu County project. The use of statewide taxes for rail has been and is divisive and a distraction that we don't need.

"Second, the FTA requires that Honolulu have a reliable funding source to pay for rail. They previously approved use of the county surcharge. And while we have received some indications from our congressional delegation that the Federal Transportation Administration may approve the use of the TAT as a reliable source of funding, we have yet today received no firm commitments from the FTA. These concerns arise out of the volatility of the TAT, as it is subject to the ups and downs of tourism, as visitors react to a highly competitive market, acts of nature, and world events. And if the FTA does not approve, perhaps knowing that the TAT is more volatile, they may demand a greater contingency or stricter stress tests to compensate for this more volatile, uncertain source of funding. This is a risk because we simply do not know what the FTA will do. And certainly, it is not in their practice to approve or not approve in advance.

"Third, the TAT growth rate used in the financial plan appears to be significantly overstated. The Department of Budget and Finance presented us with an annual growth rate of 8%, Mr. Speaker. I'll wrap it up. But we've heard from the visitor industry that this is not a realistic figure. In an August 24th letter from the State Council on Revenues to our Ways and Means Chair, a graphic chart shows that the TAT estimate is estimated to grow 3.8% in 2018, 3.6% in 2019, 3.4% in 2020, 3.6% in 2021, 3.1% in 2022, and 3% beyond that."

Representative Takumi rose to yield his time, and the Chair "so ordered."

Representative Oshiro continued, stating:

"Thank you. All of these projections by the Council on Revenues fall far short of the projection assumptions used in this bill of a 8% TAT increase for the next 14 years. It was stated that we are using a conservative growth rate of 3% for the GET, as required by the FTA. So I ask you, Mr. Speaker, why are we using an inflated growth rate of 8% for the TAT? If the true number really is more to 3% projected by the Council on Revenues, wouldn't this result in a significant underfunding of the rail project?"

"Fourth, this bill inserts the State into the accountability of a local county project. Right or wrong, the people will now hold the State and the state legislators accountable for this county project. Yes, there are significant problems with the rail project. We must hold HART, the Mayor, and the city council accountable for this Honolulu County project. Inserting the State into this project only diffuses accountability. Who is really accountable, who is really responsible?"

"Fifth, the Senate President and yourself will appoint two non-voting members to the HART board. State law cannot override city charter, so the only way to implement this provision is for Honolulu voters to approve a charter amendment. The earliest that may occur is in November of 2018.

"Sixth, the county 'owns' the half percent GET surcharge as authorized by the State. The State simply collects the surcharge, turns it over to the county, the State is a pass-through. This bill would require the State to own, control, hold the county surcharge and retain it in our state coffers, and then remit to the county only amounts, Mr. Speaker, that the State authorizes. Call it what you will, it is *de facto* state control of both the money, proceeds, and expenditures of the rail contracts.

"Seventh, the city must send rail invoices to the State for state review and approval through the Department of Accounting and General Services, state comptroller. Final processing reviews an issuance of check through the office of the Department of Budget and Finance.

"So let's step back and get out of the weeds and focus on the big policies here before us. Number one, use of the TAT. The issue here is not whether a 1% increase in the TAT will harm our visitor industry or if the hotels can afford it. The question is, is it appropriate to increase the TAT, a statewide state tax on one industry, to subsidize one county project? Further, do we want to establish a precedent for the Legislature to use state tax monies generated in all counties to subsidize a specific county project? Or should public policy instead be to continue to give counties taxing authority to fund their own local county projects?"

"Number two, state oversight. The issue here is not only that the city mismanaged the rail project or the city's numbers are unreliable. The big policy issue for this body is this, should the Legislature insert the State of Hawaii into the accountability of a local county project? Do we want to establish a precedent for the State to be held accountable for a county project? Or should public policy instead be to require greater accountability from HART, the Mayor, and the City and County of Honolulu for this project?"

"And finally, risks. For those of us who want this rail project to be completed and succeed, do we want a clean, safe and proven solution to the funding issue, or are we willing to come up with a new solution that introduces significant risks in terms of not knowing if the FTA will approve, potential lawsuits that will cause further delays, and causing divisiveness and further alienating people from their government?"

Representative Nakashima rose to yield his time, and the Chair "so ordered."

Representative Oshiro continued, stating:

"And for these reasons, Mr. Speaker, I need to reluctantly vote with reservations. Thank you."

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



"Thank you, Mr. Speaker. In support with reservations, and may I have the words that I spoke yesterday in session added to the Journal," and the Chair "so ordered." (By reference only.)

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

"Also in support with reservations, and may I have my prior comments also be inserted into the record," and the Chair "so ordered." (By reference only.)

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

"Thank you very much, Mr. Speaker. In opposition. And at this point I'm disappointed that I have to go with opposition, but I have to go with opposition, Mr. Speaker, because, as I spoke earlier, about the TAT.

"So now, as I said earlier, we had a funding mechanism. People have been paying it since 2012. Half a percent of the GET. To come back in here and then to go out to the neighbor islands and ask them to pay for rail is going to be very, very, very difficult for anybody from the neighbor islands to explain. So that is a very, very difficult choice that we have to make.

"And so for me, I have to fight and listen to my constituents because if I don't, I'm not going to be around here to represent them. And if you look at the social media that is coming from Kauai and from Maui and from Hawaii Island, if you look at the newspaper articles from Hawaii Island and Maui and Kauai, they don't understand this, and it's difficult to explain this to them.

"As I mentioned earlier, when the Senate adorned *sine die*, they had a vehicle in place that extended the GET. We dropped the floor amendment here, and I want to thank Representative from Manoa and the Representative from Wahiawa for introducing that, but it didn't pass. And that was seamless, in my opinion, Mr. Speaker. But to have the collateral damage that we are in now, it's hard, it's hard for everyone. And I know as I am standing here speaking, there's probably people from Oahu saying, we support you guys on all these things. When Hurricane Iniki hit Kauai, and I said earlier, thank you, I appreciate that, but to go back and explain that to the neighbor islands, it's just hard.

"People on the neighbor islands think that Honolulu takes too much of the pot. I don't always believe that's true because I know a lot of people in here that support the neighbor islands. But it's hard to go back there and explain that to them, it's just difficult.

"So to the trades, I would say to you, you know I have been a strong supporter of this project. But also, I grew up in the hotel industry, I started as a bus boy, I was a general manager in the hotel industry. Now, a lot of my supporters are from the hotel industry. A lot of the hotels on Kauai are in my district. So now to go back to them and say, I'd rather take that choice than another choice, I can't do that, Mr. Speaker. So that's a difficult situation that we are in.

"If you look at this bill, there's a lot of--"

The Chair addressed Representative Tokioka, stating:

"Representative, excuse me, please address the Chair. Thank you."

Representative Tokioka continued, stating:

"I'm looking at my notes though. Okay, so I'll do this and I've got to read my notes, sorry. There is a lot of language in this bill, I'm addressing you Mr. Speaker, there's a lot of language in this bill that is micromanaging the project. So, maybe this should be a state project. I'm sure Kirk Caldwell is probably sitting up there, the Mayor of Honolulu is sitting up there going, yeah you guys wanna do it, go do it.

"But when we do things like that in the language of this bill, it only makes it harder. And I'm not sure the Federal Transportation Administration is going to look at what we're doing and say, oh this is a great bill. I'm not sure.

And I'm not in the federal delegation, they know better than I, but it's going to be a difficult choice for them to have to make. And we don't want to have to eat that cost as well.

"This is, for me, when it comes to the hotels and the trades, it's like I have two kids. It's like choosing one over the other, and I don't want to make that choice, I cannot make that choice. I want to stand here and I want to speak up for the constituents of mine in District 15.

"I feel terrible for the Senate President, because he's from Kauai, and the emails and the Facebook posts that I get is putting a cloud on him. But I'll tell you what, I mentioned it earlier, the Senate had a position on *sine die*.

"So, Mr. Speaker, I'm going to end with that. It's almost five minutes. But I would like to ask that the words of the Representative from Wahiawa be inserted into the Journal as if they were my own, except for the part that he is voting up on this bill. And I'd like to ask for permission to insert comments into the Journal. Thank you," and the Chair "so ordered." (By reference only.)

Representative Tokioka's written remarks are as follows:

"If the purpose of taking TAT from neighbor islands is to pay down the debt sooner on the City and County of Honolulu's rail project by front-loading the payments, then why are we, as the State, not using this same method for our own projects? We have major state projects through the University of Hawaii, Department of Education, the medical school, and many more. Why are we not front-loading our payments to pay our projects off sooner? The answer is we don't, so why should we make the city do something that is contrary to our own practices? If we want to run this project with all the micromanaging that this bill requires then why don't we just take the project over and run it ourselves? There is no guarantee that the FTA will accept the current method of funding. It is still very possible that the FTA could tell HART and the City and County of Honolulu that they have broken the agreement and now will need to repay the \$1.8 billion that the FTA funding would have provided.

"For the life of me I cannot think of one good reason other than payback politics that we should use this method to fund the rail project. If you look up in the gallery today you will not see many of the trade unions that were here on *sine die*. They are not here because they don't even like this method of funding either. Mayor Caldwell himself stood with the neighbor island mayors to ask us not to tax the neighbor islands' TAT to fund the rail project.

"I could go on and on and on, but I believe we still have time before 2027 to fix this bill to just extend the GET, or if we do TAT, do it on Oahu only so the neighbor island legislators do not get punished for a City and County project!"

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

"Thank you, Mr. Speaker. In support. The State of Hawaii is our state, we all live in it. Even though we are separated by ocean waters, we are the same state. We are all neighboring islands, not outer islands. When an island needs help, we step up. That is our job, that is what we are elected to do, help all of Hawaii. Many of us have been to cities or countries where a rail system of some kind exists, and we know why people are so dependent on them.

"Here in Honolulu it may not seem that a rail system will help. But when parking and congestion become major issues, people will be forced to use public transportation. Remember when gas prices were so high that a gallon of gas was almost \$5? A lot of people jumped on the bus. Some of you remember when there was a shortage of gas and we had to rotate days to fill our tanks. Even now with electric vehicles, how long can you sit in traffic? I remember when there was a critical accident on the freeway at the H-1/H-2 merge. The whole island was gridlocked. Many people missed their flights and many had to drive around the island to get back to Honolulu.

"Sure, neighbor island residents and many Oahu residents are critical about Honolulu's rail, but this is the time that everyone in the State of Hawaii needs to step up and help.

"It troubles me to hear neighbor island county leaders wanting to kill this bill, not considering the ramifications it will have on our Oahu neighbors, and putting undue pressure on their legislators. It troubles me to think that they want only Oahu surcharge to be used for many, many more years in the future. And yet, they need us to help fund many county projects.

"Now, who helps neighbor island projects? I think a lot of it is Oahu's population. Many neighbor island residents travel to Oahu for medical services, for family caregiving, for vacations, and to visit family and friends. They are already helping to pay for rail. So when I hear someone say they should not pay for something that doesn't benefit their island, I shake my head and know that in many ways Oahu residents help neighbor islanders.

"Remember too, our *kūpuna*. If we are in the beginning of the silver tsunami, then we need to think of how many elderly people will not be able to drive, who will become dependent on alternate modes of transportation.

"I don't know what the future will be, but I can dream, I can imagine. I can imagine many residents driving to a rail station then hopping on to continue their commute to town. I can also see the expansion of rail to the university, to Hawaii Kai, and perhaps around the island. Heck, it might even help with the congestion on the North Shore and allow for a breathtaking view of this beautiful island. Finally, I can imagine an elderly community developed close to a rail station where they, our *kūpuna*, can safely commute around Oahu.

"What we have in front of us is a good compromise. It is a sacrifice by everyone to help our largest populated island complete a transportation mode. Our visitors will contribute and need to contribute, because all over the State our infrastructure is being worn down. Everywhere in the State there is a need to fund infrastructure projects.

"This issue has divided many of us, and I agree, it has become a poorly run project. So now we can make sure that this project is audited and safeguards are in place to assure accountability. SB 4 will accomplish that. We need to come together on this. We as leaders need to stand up for everyone, everyone in this great state. Thank you, Mr. Speaker."

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

"Mr. Speaker, I am voting in opposition to the measure and it's with some heavy heart that I'm doing that. But in my former positions and in all my years with the Legislature, I believe that we are one state. We are not separate islands, but belong to the State of Hawaii.

"So therefore I find myself very saddened with what is happening now in the divisiveness between the neighbor islanders and the State. Let me say this, the cost to the neighbor islands for this 1% will be very minimum because the cost is to the hotels and the tourists and the people who go to the hotels. Most of the neighbor islanders, like let's say from Maui, don't go to the Grand Wailea or the Ritz-Carlton. So the cost is very minimum for those maybe that go, then they're going to have to pay a little more.

"But I always believe in sharing. Honolulu picks up the slack for Maui, Kauai and Hawaii because they have the ability to do it, they have greater resources. And the islands too, where they can, they will assist in Honolulu. We are one state.

"However, let me say this. The speech that was made by the Representative from Wahiawa is true in many ways, and I would like to support that. But I look at the rail and the State of Hawaii as more important than anything else. And we must remain unified as a state and not be divided by the islands. Thank you very much."

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

"Mr. Speaker, no vote, written comments, and I'd like to add some remarks to skim over the 10 reasons why this project does not deserve one more public dollar.

"Reason number one. We have already spent too much time, money and effort on this project, Mr. Speaker. We have, as members have said, we have divided our community, we have pitted people against each other. City

councils against the Legislature, counties against the State. It's not on time, it's not on budget. Our economy has structurally suffered from that. Homelessness has been generated. The giant sucking sound of the \$2 billion that we've set aside is a macroeconomic concern that I have. But I said I was going to skim over the 10 reasons.

"Reason number two. The rail project has cost the Mayor and city and all of us in elected office our credibility. Mr. Speaker, when we leave today, do you think people are going to believe what we passed is the way it's going to turn out? I think the way that this has come about, our credibility is at a long, long, long low.

"Reason number 3. And this has been often spoken for years, decades, but we don't seem to do too much about it. The GET tax that is here extended until 2030 is regressive, it hurts the poor, it hurts the poor, and it hurts the poor. That is a reality of the structure of this bill.

"Fourthly, Mr. Speaker, raising the TAT threatens Hawaii's economy and hurting an industry that is the golden goose that lays the egg. We may think that because we've got 8 million tourists as of last year and it's growing this year, we're up 9.6% in terms of money, that this is going to go on forever and ever. Some people have mentioned the volatility of the TAT, it's true. The most volatile industry in the world is the visitor industry, tourism is very volatile. One day they're here and the next day they're gone. Case in point has been Bali. Bali was at 6 million, they had a Bali bombing and they were gone. You never know what's going on. And I'm not saying anything about North Korea, but we are, as Guam and others, still in a position where we could have our tourist industry jeopardized.

"Number five. Rail won't solve our congestion problem. Mr. Speaker, it's rather sad that the environmental assessment statement, or the environmental impact statement, said that traffic congestion will be worse in the future with the rail than what it is today. According to the forecast, traffic will increase 23% if we do not build the rail, and 21.3% if we do build the rail. You see any difference? It's like 1.7% is going to be the difference in terms of traffic congestion. And my good friend from Ewa Beach, unfortunately I know he's in awe, everybody's going for their constituents, but because of that I think there is going to be grave disappointment in terms of how this is going to relieve the traffic.

"Number six, Mr. Speaker. The city has not sufficiently explored utilizing public-private partnerships. I already covered that in my floor amendment to get private sector money skin in the game.

"Number seven, Mr. Speaker. Stopping additional funding is the only way we can reevaluate how to finish the project and the existing budget. We barely had the voters approve this in 2008, right now if you probably took a vote, by the public, not by elected officials, it may probably, it's probably going to fail, given what we've gone through. The difficulty is, every time the budget changes, we are the automatic enablers that we are always able to come back, we are always able to accept an increase, a budget change, a reorder, and I've addressed that through the rail cap, Mr. Speaker, and I will not go into any more detail.

"Reason number eight. I will not vote for another dollar of public money. I quoted John Henry Felix as to why a forensic audit is needed. And the forensic audit is the one that we have rejected, so I won't go into any more detail about why that word should be included in this bill.

"Number nine. Operating and maintenance costs are not accounted for yet. Mr. Speaker, that's really a serious omission. If we don't know how we're going to operate it and maintain it, I mean it's almost irresponsible. And I know we asked the Mayor on Wednesday how we're going to do it. We got some answers about raising fees and stuff. But remember, he also said there's probably a \$600 million to \$900 million *puka* in this particular budget."

Representative McDermott rose to yield his time, and the Chair "so ordered."

Representative Ward continued, stating:

"Kudos to the good member from Ewa, who I said that his constituents will be disappointed. But the point is, Mr. Speaker, when you've got a

\$600 million to \$900 million, even if you cut that in thirds, we've got a budget deficit that everybody says, well they've come for the last time. Well we said that how many years ago, they came for the last time to ask for an increase. The sense is, they're going to be coming back and back. And someone earlier said on the floor, this is going to be known as a state project, not the City and County project, and that's going to put the ball in our court.

"Mr. Speaker, number 10. Lastly, and I would think most importantly, I don't know if Councilman White is still here, but my last reason for not voting is that, let's pick up the money left on the TAT table before increasing taxes on our hotels, particularly on our residents on the neighbor islands. County Council Chair Mike White, who served in this body, made us feel that we have forgotten something on the table, i.e. that TAT tax that is being kept by the Airbnbs, and now more specifically the Expedia and Travelocity.

"It goes something like this, Mr. Speaker. A mainland tourist books online a room for \$266 a day. Expedia charges 4% GET tax, or about \$12. Expedia also charges \$9.25 TAT tax, or about \$25. The total that the tourist puts with their express, or whatever card they're using on the website, they pay \$303 per day. What happens after that is that Expedia sends 75% of this to the hotel, 25% they keep. What happens after that happens, the hotel then sends its GET and its TAT of its 75% to DOTAX. But here is the hooker right now, this is the big issue which I really hope the Finance Committee will pick up and run with later on in the session 2018. The hotel sends its GET and its tax, but Expedia sends its GET tax, but keeps, Mr. Speaker, it keeps its TAT tax, which it already charged to the customer.

"So I'm hoping, Mr. Speaker, that reason number 10, if we're going to go increase the TAT tax, but yet we're going to allow Expedia and Travelocity and those other big wholesalers or whatever the name of these tourist companies are, to keep the TAT, I don't think we're doing our job, I don't think we are minding the store. And I know there's some legislation that Councilman White is working on. There is some hopeful discussions that we will have after this. But Mr. Speaker, if it's \$60 million, \$80 million per year, this is a way of freeing up the burden on our taxpayers.

"In closing, Mr. Speaker, unfortunately we have a number of things that are going to be unresolved by this bill. One of which is, and Mr. Speaker, I refer to 9/11, when I was in Washington D.C. when it took place. It was encouraging that there was a Rudy Giuliani in terms of the recovery for what was going on. I don't see a point person to make sure that this rail is on time or to make sure this rail is on budget.

"Mr. Speaker, there's got to be some accountability, because right now all we've had is a bouncing ball of responsibility. And one of the reasons why we're here today is because we've never been able to pinpoint, except now for an audit that we're asking for to be able to find out where we're going. For those reasons, Mr. Speaker, the 10 reasons, and the most important of which is the last one, I vote no on this measure. Thank you."

Representative Ward's written remarks are as follows:

"Mayor Caldwell can finally relax now that the Legislature passed another multi-billion dollar bailout for the Honolulu rail project. Over a decade ago, the rail was introduced as a solution to our traffic problems. Now it's 2017 and all we have are missed deadlines, a budget that has nearly doubled to \$10 billion, and broken promises... not to mention the towering concrete pillars now ruining some of Oahu's best views.

"The Democratic Majority fast-tracked a statewide tax increase to rescue the rail project over only five days. This controversial \$2.4 billion tax bill ultimately passed the House by only 16 votes—a slim margin in a body with a 46-member Democratic supermajority.

"The Minority Caucus has only five members, and played a valuable role this special session by providing a voice for dissent. Our caucus introduced four floor amendments that aimed to bring real accountability to the rail project, enforce a strict budget limit, implement public-private partnerships to save time and taxpayer money, and eliminate the geographic injustice of taxing neighbor island businesses to pay for Honolulu's budget-busting rail.

"First, we wanted to help restore public confidence in the rail project by ensuring that the audit would specifically seek out fraud, waste and abuse.

Although the existing bill asks the auditor to examine the rail project's records, our floor amendment called for a 'forensic' audit that explicitly directs the auditor to look for evidence of criminal activity. Without the word 'forensic,' fat chance fraud will be uncovered.

"Our second floor amendment addressed the project's soaring costs and likely future visits from the Mayor requesting even more tax dollars. He still insists that the project is \$600 million to \$900 million short, and has admitted he doesn't know where rail operational and maintenance funds will come from. Some analysts predict the final cost might be as much as \$10-\$15 billion. At this rate, who knows how high it could go! That's why our second floor amendment would have imposed a 'rail cap' and put a stop to blind funding of rail.

"Other states and countries have insisted that the private sector have some 'skin in the game' and have tapped into private investment or public-private partnerships ('P3') as a tool to build public infrastructure faster and with less burden on taxpayers. This was our third amendment that would have stopped the flow of state funds for the rail project unless the city could come up with at least 10% of the project costs from private investment. It's simply unfair that public officials have ignored P3 opportunities in favor of repeatedly raising your taxes.

"Finally, and perhaps most importantly, our last floor amendment would have exempted neighbor islands from the TAT increase. Majority leadership negotiated this hasty rail deal without real input or testimony from the neighbor islands, whose residents were blindsided to learn that their local economies would now be held hostage by Honolulu's rail boondoggle. Four neighbor island Democratic Representatives joined us in voting to keep the burden for Honolulu's rail bailout off the neighbor islands and showed that their dedication to their constituents exceeded that to their leadership.

"Although the Minority Caucus remains small, we refuse to be silent. If the majority was listening to the people of Hawaii, we would not have introduced these common sense amendments because the super-majority would have had the backs of the people of Hawaii. We will keep pushing for better solutions and continue to fight to bring greater transparency and accountability to the legislative process, especially to the rail project—the last of which we have not yet heard."

At 12:59 o'clock p.m., Representative Souki requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 1:02 o'clock p.m.

Representative Souki rose, stating:

"Mr. Speaker, I'm sorry, I thought I was voting on an amendment, when it was on the bill at hand. So I wish to retract my vote down and to go up on the bill. Yes on the bill."

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

"Thank you, Mr. Speaker. In opposition with some reservations. There are no easy choices for any of us today. I believe that most of us here, including myself, would like to see the rail completed. Billions have already been invested, and it will help to alleviate traffic in Honolulu, spur transit-oriented growth along the rail line. To keep the country, country, we have to keep the city, city, and mass transit is an essential part of that.

"I also appreciate the effort that was made by the Finance and Transportation Committee Chairs to shift some of the tax burden for rail from our poorest residents and working families to those who can better afford to pay a little more, as well as the provisions in this bill that provide for more oversight and accountability of the rail project.

"On the other hand, for those of us who represent neighbor islands, we are concerned about the impact this bill could have at home. Although this tax will be paid mostly by visitors and far less by working families compared to the GET, it will place an additional burden on our tourism industry on neighbor islands, which we are highly dependent on.

"On Hawaii Island, property taxes on hotel and resort properties were raised by 6.5% just two months ago by the county. I believe it's too much to ask our hotels on Big Island to absorb both of these increases at the same time, and for that reason I must vote no today.

"I also want to say, echoing the comments of many of my colleagues, that going forward I hope we can all try a little harder to remember that we are all in one canoe, no matter which island we live on. We must move away from pitting Oahu against neighbor islands, county government against state government, House against Senate, and learn to work together, because there is much work to do and that is what we were elected to do. Thank you."

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

"Thank you, Mr. Speaker. Today I rise in opposition. Of probably one of the most rural districts around, being from the island of Molokai, we have suffered many lack of resources. Planes not arriving, planes being cancelled, barges not arriving on time. So I understand about the share of help that we get from the island of Oahu, as your taxpaying people here that have shared with us. I'm grateful to my colleagues that have shared the taxes generated here to the neighbor islands of the most rural areas around, the only canoe district that has to be traveled by airplane or by boat.

"This bill is not Honolulu versus neighbor island, but it is being played out that way by social media. All of us have different priorities for our districts and communities and our islands, and that is okay. But we must give the people of the entire State of Hawaii a chance to understand what is before us.

"People lost their trust in government, and we make it easy for them not to trust us. Trust is the issue for me here on many levels. We as legislators need to trust that our legislative fix will meet FTA requirements and we need to trust that HART and the City and County of Honolulu will be accountable and transparent.

"We all need the time to sit down and think about it. The financial implications of which time we don't have to make a financially sound decision. How we looked at every possible option to fund this project, and I repeat, how we looked at every possible option to fund this project.

"Mr. Speaker, I support the rail project, I know one day I will ride it, and just to see from the top of that rail looking down. Because when I come to Honolulu I always tell myself, if I got you guys on the rail, I can get to work a whole lot faster. I support all of the jobs the project and the completed transportation system will bring.

"The process needs to be transparent. And we need to know that when we make this decision and that we have done our fiduciary duty, and that the people, the taxpaying people, know that we have their best interests at the forefront of our decision. With that being said, for this reason I am in opposition. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. I rise in support. This City and County project has really put the State in a bind, and I think we all feel that here today. For me, I support a mass transit option for our state. I support it because it's the future of our next generation and an ability to lower costs and the cost of living for folks who need to get around town, among a number of other things that our colleagues here today have highlighted.

"Two years ago I voted against extending the GET for a number of reasons, because of the issues at HART, because of cost overruns, because of all the reasons why other folks here on the floor today are raising concerns as well. Unfortunately in that time, that situation hasn't much changed from my perspective. But what that means today is changing course. Because it is too easy to continue to say that this is somebody else's problem. It's too easy to kick the buck.

"For us, elected leadership is ultimately about doing more than just making a statement. It's about doing more than just what supporters want, it's about doing what everybody needs. It's about taking action, it's about

working together to find compromise on the most difficult issues, and this is one of those.

"And this legislature, Mr. Speaker, both this special session as well as the regular session earlier this year, has probably debated this bill and this issue more than any other. Hearing from the public, hearing from different constituencies and districts and islands and people all across the State. This bill that is before us today is a result of that process, that discussion, and ultimately the compromise, not only between the Senate and the House, but between all stakeholders.

"Mr. Speaker, I support this bill today because ultimately, on the whole, I feel an obligation to improve what's happening at HART, to improve the outcome, which we may not agree with at the end of the day. Because ultimately this bill reduces the burden on local taxpayers moving forward. It ensures accountability and an audit to find out what is happening. It does a second analysis of the alternatives from Middle Street onward, to make sure that the right decision will be made in the future. And most of all, it does all of this without jeopardizing the federal funding and without jeopardizing other revenues, which all our island economies rely upon.

"Mr. Speaker, in my own district, in our district here on the windward side, I've heard from a number of people who want to finish this project, a number of people who want to stop it in its tracks. But there is one thing I've heard from everybody, everybody who has written, and that's to ensure accountability to do the audit, to get to the truth, because everybody wants to know that whether their dollars are spent on this or other projects, that they're spent in the right way.

"And so, Mr. Speaker, I support this bill because it includes that analysis more than anything else, and I think it's the prudent and right thing to do moving forward. Thank you very much."

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

"Mr. Speaker, I rise in support with grave reservations. Mr. Speaker, this is a change in my position. I've opposed rail since it first came up in 2015. However, as badly conceived, as badly implemented as this project has been, I think the time has arrived to recognize what the good member from Wahiawa said. Rail is the future, or will constitute part of the future of Honolulu. It is the biggest project that we have ever undertaken in the State of Hawaii. It will inevitably be the backbone of not only transportation, but also commerce.

"Rail has had many missed opportunities, including some of the biggest. A one vote difference in the city council in 1992 spelled the difference between a 5-4 vote and 4-5 vote at a time when rail was about \$2 billion and would have reached UH Manoa. We've had public-private partnerships mentioned many times, some of us know good lobbyists still active in this building who could not get well-known businessmen from Japan and Singapore to make a full presentation on their public-private partnerships before two mayor's administrations. We've had the question of light rail versus heavy rail, fully elevated versus partially elevated. I believe those are long missed opportunities. And of course we've had cost overruns, just nightmarish.

"But overall, one of the things I've learned in several decades here is that implementation of policy is harder than policy making. And these errors in planning, in implementation, are unfortunate, but we now have to live with them. And for these reasons I think that we need to go on with rail.

"It is too late, much too late, to talk about whether we should go ground level, whether we should have a new technology. Too late to go through a new EIS, which will take 18 months, maybe 2 years. Too late to go back to square one, get new federal approvals for whatever technology, route, funding we need.

"It is unfortunate that we have to live with this project and push a project that has had so many problems through to completion, but I believe it is time that we finish this project, get it to Ala Moana, and hope that from now to completion to Ala Moana we will have fewer problems than we have had in the past few years. So I am in support with grave reservations. Thank you."

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

"Thank you, Mr. Speaker. Strong support. To enumerate the reasons for support, first and foremost is transportation equity for the leeward side. As the Representative of the Ewa Beach area and on the Ewa plain, this will dramatically improve the quality of life for people on West Oahu.

"Things are brought up about studies about what ridership is going to be or not and is traffic going to be better or worse, but what people who always bring that up always fail to mention is that that's with about 100,000 more people in West Oahu. That's the kind of improvement that this is talking about.

"It gives HART adequate funding to complete the project, it requires the audit. Frankly, I wouldn't vote for this if it didn't have the audit. And people have tried to make much ado about semantics, but a rose by any other name is still a rose, but as Juliet learned in Shakespeare's story, semantics did matter. And if we call it something other than just a more general audit, it'll actually tie the hands of the auditor and limit the scope of what he can do.

"The other thing that I like about this is that it shares the tax burden. The people, the working families, the working poor, even the homeless, have paid more than their fair share for this project already. And if you just read the paper today, we have here's two stories, one from the Star-Advertiser, one from the Maui News, headline, July tourism numbers are islands' biggest ever. That's today. If I believed that this was actually going to harm the tourism industry, I wouldn't support it. But I don't believe it, and there's been no credible evidence given to show that it will. And that's why I support this.

"Just to quote a couple of things from the story, Hawaii's visitor industry knocked it out of the park in July, which was the biggest month ever in Hawaii tourism. July was the 14th straight month with visitor arrival and spending gains, keeping Hawaii on track for a record year. Spending grew by nearly 10% to \$1.6 billion, according to preliminary statistics. The numbers, as a quote from someone in the story, the numbers have just been getting larger and larger. Spending is up to \$812 million more than the same seven-month period in 2016. Visitor industry proponents are quick to call the steep gains a home run. Star-Advertiser today.

"Maui News today headline, Visitor spending, arrivals continue on an upward trend. And a short quote from there, visitor spending on Maui Island grew by 8.4% to \$432.5 million in July, 6.7% jump."

Representative Morikawa rose to yield her time, and the Chair "so ordered."

Representative LoPresti continued, stating:

"Oh, thank you. I forgot that I yielded my time earlier. Okay, I'll try to wrap it up. Now, there's a lot of people and there's a lot of misinformation out there, especially on social media, that's very frustrating. And I understand, if I was on a neighbor island, I wouldn't want to pay for Oahu's big project either, in many ways. But the fact is and the great news is that they're not going to pay for it. And it's incumbent upon this body and the Legislature and the government to try and explain maybe a little bit better as to how this tax burden works, but it's not going to be affecting them. In fact, the way that even affects the tourists for each day, it doesn't even amount to half of a hamburger at McDonalds. That's how much we're talking about.

"So I'd like to congratulate the Transportation Chair, the Finance Chair, the House leadership, the Senate leadership, on bringing together your minds to find a compromise on this. And to conclude, it's always easier to tax the poor, it's always easier to tax working families, and this does not do that. This brings an end to just relying on them. And that means it's harder to do. It means it's harder, it means it's more painful to do. And that's a very good indication, in my opinion, that this revenue mechanism is the right way to go. Thank you."

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

"Thank you, Mr. Speaker. In support. I felt it was important to speak because this is a change in my position. But there are three primary reasons why I feel like this is a good bill, actually, and a good compromise that was brokered not just by the House and the Senate, but by so many stakeholders and informed by the public at large.

"One of the primary reasons that I am supporting this bill is I do think that the risk of a default in the rail project bares systemic risk for our state. That means that everyone in our state may be adversely impacted if many of the things that we share, many of the agreements that we share with the Federal Government, and many of the funds that they send here are then in question of whether or not, unfortunately, the State can honor its obligations. Now, the State has been put in this position by a county project, but unfortunately, that is the reality we live with.

"Another reality that we are living with is a non-ideal time frame. I think everyone in this body would love for there to be more time, but realistically, the September 15th deadline is what we are up against. And that is what HART will have to reply to and that's the timeline that we're given and it's the timeline that we're having to realistically operate in, which is why the necessity of the special session and passing something that is a compromise, not beloved by everyone, but still a good bill and a compromise nonetheless.

"It is also sufficiently funding the rail project to completion. It satisfies the \$2.378 billion deficit, which is a staggering amount, one that none of us would like to countenance. And I think that the fact that it is so high and the fact that the public is frustrated with the project is the reason that the bill was crafted the way it was.

"One of the things that the previous speaker has mentioned, so I won't belabor the point, but one of the reasons that I particularly like this bill is that it does substantially shift the cost of funding this deficit away from residents who can least afford it on our islands, to visitors who can afford to pay it.

"Visiting, while a very important industry, is typically a luxury purchase for most consumers. So they're opting and making that choice, as opposed to the carrying out of their daily lives. And that's why the general excise tax is so negative to so many people who cannot make the choice to opt out of it just to live their daily life. To eat, to go to the doctor, so many of these things are taxed by the general excise tax, which is why that's not a funding mechanism that I particularly favor.

"As many of you know, I've consistently fought to reduce the cost of living for those who cannot really afford Hawaii anymore. That's the elderly, it's our low-income people, our working families. Everybody is being priced out of paradise, which is why I am so grateful that this particular bill explores another way to fund it, and outsources more than half of the cost to tourists, to nonresidents, who I think will still visit Hawaii in spite of the extra \$1 for every \$100 spent they will have to pay under the imposition of this bill.

"And lastly and most importantly, one of the reasons that I support this measure as opposed to some of the previous ones that have come before this body is because this is dramatically increasing accountability and transparency for the public. Robust accountability was lacking in many of the funding mechanisms that we passed in the past. And I think that's led us to the point that we find ourselves today, where we're not sure why costs spiraled, they've spiraled to staggering numbers that most people can't comprehend.

"But in this bill, it's not a blank check, it's not free money that's just sent over to the city. Rather, through the drawdown mechanism that parallels the Federal Government, we are ensuring that the State has an oversight role. Having served in the executive branch, I know what it feels like when legislative dictates sometimes make your life a little bit more difficult to implement.

"And if we weren't experiencing such problems, I probably might be saying something different, that we shouldn't have such a prescriptive measure. But clearly, because there are so many problems, everyone, whether you're a transportation expert or not, can see them, I think the public is asking for greater accountability. And we are having to play the watchdog

role, we are having to be a little bit more prescriptive to ensure that taxpayer dollars are wisely being spent, so that we do not find ourselves in this situation.

"The fact that invoices have to be reviewed but also posted online means the public can also inspect how their dollars are being spent. So because failure to enact this legislation I think poses systemic risk to the State and all of its people, because it at least substantially shifts the burden to nonresidents, and because I think this will finally ensure some real accountability, I think this is a good compromise. And as we all know, legislation is the art of compromise. So it's for these reasons that I strongly support this bill. Thank you."

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

"Thank you, Mr. Speaker. I rise in somewhat reluctant opposition to this bill, but in opposition. I want to acknowledge the hard work and countless hours that led to the current bill. I appreciate the innovative use of the TAT, especially it will decrease the financing cost of this bloated project.

"I think, unfortunately, that the input from the neighbor islands was not fully considered, was in fact at times disrespected. There was no need to raise the TAT for the neighbor islands. I also felt this project needed a timeout, to avoid cutting off the wrong part of the economic anatomy from the wrong patient. In this case, the neighbor islands was the wrong patient.

"I appreciate amendment four, put forth by the Minority Leader, that said in effect, doctor, they're cutting off the wrong leg. I struggled to overcome my strong reservations, but in the end I am voting no on this bill and request to be able to submit written comments to the Journal. Thank you, Mr. Speaker."

Representative Creagan's written remarks are as follows:

"I am submitting my comments on the Oahu rail project, SB 4 of the special session. My objection to the project and alternative ideas are encompassed in my article published in West Hawaii Today on September 4, 2017, as well as my article published in Civil Beat on September 8, 2017."

Representative Creagan submitted the following *West Hawaii Today* opinion piece:

Another way

Published September 4, 2017 - 12:05am

Updated: September 4, 2017 - 12:05am

My Turn | Richard Creagan

I want to take this opportunity to explain why I am joining our Hawaii Island Senators in voting "NO" on final reading on SB4 (the Special Session Rail Bill) and to propose an alternative.

The recent struggles between the state house, the senate, and the counties about how to fund rail have been very contentious. There is also still a large percentage of Honolulu residents who would prefer the rail project be stopped altogether or be modified, so neighbor islanders are not alone in not wanting to pay for this project.

The innovative proposal by Finance Chair Sylvia Luke and the finance committee to have the TAT increased to support the rail appeared to make sense in that it would provide up front money that could help alleviate the interest costs of the rail project. But the proposal was not received well by neighbor island mayors and county councils because it would force neighbor islands to fund the rail project. And they were not consulted in a meaningful way.

The hotels also objected, as would be expected. I don't think the hotel industry's objections to this 1 percent increase are credible given their rampant and growing resort fees which, in many if not most cases, are mandatory and which to date have not been subjected to any TAT and which often amount to 10 to 15 percent of the room rate, if not more.

The counties have not been respected in this current process, and I watched on Wednesday night as the county representatives were abused and insulted by some of the house legislators. This lack of respect for the counties and their representatives all through this process, the lack of decision making,

and the lack of county benefit has led many neighbor island legislators to decide to vote NO on this bill, and I am one of them. The neighbor island counties have not consented to this and are not benefiting.

The neighbor island counties are reluctant to have the TAT raised if that TAT increase is going to rail, and I agree. In addition to being a project that primarily benefits Honolulu, the cost of the rail project is ballooning out of control and in need of an immediate forensic audit. At the same time, the counties have been clamoring for a fairer share of the TAT.

As an alternative to Chair Luke's plan, I propose raising the TAT by the same 1 percent, but allowing each county to use that increase for their own county's needs. This way, Honolulu can use their increased revenues for their rail project without forcing the neighbor islands to contribute to it. In Honolulu's case, I would allow them the option to raise their TAT a total of 2 percent to make up for the lost neighbor island revenues. This would be in addition to the 103 million capped TAT proposed by Luke for the counties. I would also reopen the window for the neighbor islands to decide if they might want to increase their GET by 0.5 percent and extend that option to Honolulu for three more years, i.e. until 2030 as provided in the current bill SB4.

In the interests of county autonomy each neighbor island county would have the ability to opt out of this 1 percent TAT increase. They could also selectively exclude from this increase, if desired, the "little guys" who might augment their income by renting out a room or a small dwelling as a transient accommodation.

If SB4 fails to pass in this Special Session, it will not stop the rail. They have plenty of funds to keep going for now. Their existing GET increase continues for at least another 10 years to 2027. There is little likelihood that the Federal Transportation Agency would not understand a time out to do a forensic audit. It is time for a time-out for rail but it is also time to provide another funding source to the neighbor island counties for their OWN needs, not to support a bloated Honolulu rail project.

Let us respect our counties, and empower them to help their own people.

Representative Creagan also submitted the following *Honolulu Civil Beat* Community Voice article:

From Rudderless To Driverless: A Rail Alternative

The 21st-century solution to mass transit is going to be autonomous vehicles.

By Richard Creagan / September 8, 2017

We have a massively over-budget, steel-on-steel rail project. Any Las Vegas oddsmaker would probably bet that the current projected cost will balloon even more.

Why steel on steel?

That is 19th-century technology and is obviously very expensive. The planned capacity of the line is low with no express train lane. The number of riders is likely way overrepresented and yet we are willing to give up a generation of good projects for this failing one.

We need money for our unfunded liabilities for retirees — those unfunded liabilities may never be funded if this project proceeds. We have struggling schools and hot schools and failing students. Our health care system is imploding. We have a huge housing and homelessness problem.

[image of Nissan Leaf removed]

The future: Nissan testing driving NASA space technology for use in driverless cars.

I think we are heading for financial disaster with this project. This project was barely approved by the voters of Honolulu back when the cost was much less. I doubt they would approve of this project if a vote was taken today.

I am proposing that an alternative be considered that is 21st-century technology and could potentially alleviate our state's economic pain while providing even more jobs.

Going Autonomous

The 21st-century solution to mass transit is going to be autonomous vehicles often known as driverless cars, although they could be driverless truck and buses.

Google (aka Alphabet) and Tesla and many others are working full speed ahead on this but there are still large problems. It is not the driverless vehicles that are the problem; it is interacting with the vehicles that have drivers.

These autonomous cars have to interact with drunk drivers, speeding drivers, texting drivers, older drivers with impaired vision and driving reactions, young inexperienced drivers, road rage, drivers who fall asleep, have seizures or other serious medical problems etc.

It seems a given that even if we abandoned this current project we would have to deal with the shame of these Stonehenge like structures. So, what can we do?

We could abandon the steel-on-steel model and consider autonomous vehicles aka driverless cars. The rail bed minus the tracks could provide a great test bed for driverless vehicles absent the driven cars.

The projections are that at some point most cars will be driverless. In this envisioned future the cars would be owned and controlled by the mass transit utility.

Initially the driverless vehicles would transport passengers along the "rail" route (without the rails), but at some point they could start expanding into the streets some of which could be totally dedicated to these vehicles. These vehicles could be mass produced like a modern Model T very economically. They could of course run on batteries.

Companies such as Google (Alphabet), Tesla and a slew of dot.com and social media billionaires looking for the next big hit could be attracted and possibly pay off the entire cost of the "rail line" while providing potentially a much more flexible, higher volume public transit option.

The tech billionaires already come to Hawaii to play and vacation. Let's put them and their money to work.

So Long, Heavy Rail

Mount a bunch of drones on some driverless food trucks and your hot pizza or your morning latte and croissant could be delivered to the balcony of your 24th floor condo.

At some point the trunk line of riderless vehicles could arborize, with branches going on grade to Waikiki, to UH Manoa and beyond. We don't have ice, snow and cold to deal with which would simplify things.

As these vehicles could be built much lighter than the envisioned steel behemoths, it is possible that two layers of vehicles could be carried by the current towers, with even elevated bike lanes a strong possibility.

Autonomous vehicles that would interact with only other similar vehicles could be built much more simply without all the design costs and bells and whistles of current cars. Given their perfect tracking and potentially narrow design these vehicles could turn two lane into four lane roads.

So much our land and income goes to giant cars, roads, driveways, garages. Reclaim that space. Transform our society at least along the linear city to a zone of all driverless vehicles.

The incredibly wealthy technology giants that could pull this off could revolutionize tech in our state and put us at the head of the curve and empower our young people. Let us transform this pig's ear into a silk purse.

Let's move into the 21st century with a resounding win instead of what is shaping up to be a disastrously expensive albatross loss. Let us transform what could be a riderless monstrosity to a driverless masterpiece.

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

"In support, Mr. Speaker. As you heard the other night, some Kauai residents are not happy that TAT taxes paid by visitors on our island will be used for the needs of another island. Some residents believe that all taxes paid on Kauai should stay on Kauai. The Representative from Waimea, Kauai, the Senate President and I have made strong arguments that this is a dangerous position to take, since Kauai receives a disproportionate, higher share of not only the TAT county allocation, but other taxes and fees as well.

"The State of Hawaii subsidizes Kauai's highways, our harbors, Kauai Veteran's Memorial and Mahelona hospitals, Kauai Community College, and the list goes on. With only 72,000 residents, we rely on the rest of the State, primarily urban Honolulu, to provide employment, services, and capital improvement projects on our island.

"As a freshman legislator, I'm learning about how the State has to balance basic services such as public education, human services, and health care to every resident in the State, while addressing special needs as they arise. When Hurricane Iniki struck Kauai, a disproportionate share of state resources were funneled to our island to deal with the disaster and the

recovery. When Hawaii Island experienced threatening invasive species and the onslaught of natural disasters, the State came through with funding. And when Maui privatized their healthcare system recently, significant resources, \$63 million, were allocated to make the conversion work.

"The use of the TAT, paid for by our visitors, helps to complete the rail system to Ala Moana and saves the State of Hawaii \$1 billion in financing fees over time. I'm also supporting this bill because it restores \$10 million of the TAT and gives neighbor island counties the authority, once again, to enact the .5% GET surcharge for transportation projects on their islands.

"Mr. Speaker, two nights ago at the joint SB 4 public hearing, I was sad to see the divisiveness and the tension between our neighbor island counties and this body. As a former county councilmember and managing director, I understand the frustration of the counties. As a State Representative and member of the Finance Committee, I see the broad and deep financial needs throughout our state.

"But there is hope. Yesterday, our House Tourism Chair expressed his desire to see the TAT help counties address the impacts of visitors. I strongly support this position. On Kauai, one out of every four or five persons on any given day is a visitor. They are impacting our roads, our parks, and our communities. In any tropical destination, there's going to be an airport, there's going to be hotels, a McDonald's, a Pizza Hut, a Taco Bell. But what we have in Hawaii is we have our natural resources, we have our cultural resources, and we have our beach parks. This is what makes us so special in addition to the Aloha Spirit.

"So I really believe that we need to support and protect our natural resources. We need to support community groups who are stewarding our cultural resources. We need to upgrade our park amenities, add highway capacity, and where there is no room for additional highway capacity, we need to help our counties with our shuttles and busses, which is our form of rapid transit.

"Yes, we must focus on marketing Hawaii, but we must either reallocate or expand our resources to focus on our product. Our current path is not sustainable. I believe the counties can be our partners to help us improve our product, improve the quality of life for everyone, and make our visitor experience second to none.

"Finally, I'd like to express my thanks to all, in both chambers, who worked on this compromise measure. *Mahalo.*"

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

"Thank you, Mr. Speaker. I rise in opposition. As you know, I worked tirelessly on my homeless projects. And oddly enough, I need the actual completion of this rail project, because it's actually part of my homeless projects. So to rise in opposition is actually doublespeak, to say that I would be against such a bill.

"But I'm a man of principle and I would like to hold to my principles. And the principles I am speaking of is actually what Representative from Wahiawa actually spelled out earlier. So instead of repeating all he says, I would just like to adopt his words as if they were my own, and I would just leave it at that, so I just still rise in opposition. Thank you, sir," and the Chair "so ordered." (By reference only.)

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

"Thank you, Mr. Speaker. In support. I know it's been a very difficult discussion we've been having, especially for those who the rail will not benefit directly. And as a member whose district will benefit directly from this project, I just wanted to thank everybody for supporting such an important project, which will, as the Representative from Wahiawa mentioned, revitalize our underdeveloped and aging communities, which include my neighborhoods of Kalihi, Palama, Iwilei and Chinatown.

"I'd also like to thank the Chairs of the Transportation and Finance Committees for coming up with an alternative financing solution, which will save us hundreds of millions of dollars in financing costs. Thank you."

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

"Thank you, Mr. Speaker. In support with reservations. As I was solidifying my position this morning, I jotted down some thoughts, and I wanted to share those right now. And obviously my reservations stem primarily from the fact that the TAT component of this particular proposal is extended to the neighbor islands, and obviously we are having a lot of emotional conversations with regards to that component.

"I am happy that the TAT increase is only 1% as opposed to 2.75%, which is what we were discussing earlier, and that that burden is primarily going to be absorbed by tourists and not our local residents. I am grateful for that. I also appreciate the fact that the GET surcharge, Mr. Speaker, in terms of the extension, is specific to the island of Oahu. I like the accountability provision that is incorporated into the proposal, that is also very good.

"But my thoughts as we consider this proposal through the session and now during the special session, are with regards to the larger picture, Mr. Speaker, and I wanted to get to the essence of what we are considering this afternoon. We, right now, Mr. Speaker, are well within this public works project. We didn't just start, we're not in the planning stages, we are far along.

"And Mr. Speaker, our leeward brethren have asked for our help with the challenge that they are having. And they are suffering, Mr. Speaker, they are suffering. They don't get to spend time with their families, like we do, because they are stuck in traffic for four hours a day. So, this is the proposal that we have in front of us, we.

"And I've been very bothered actually, Mr. Speaker, about how this conversation has developed. I don't like this us versus them, this Oahu versus Maui, neighbor islands versus Oahu. That is, to me, very dangerous, it is very destructive, because it is only we, we together, Mr. Speaker. And it is my feeling that we rise and we fall together, Mr. Speaker, we succeed or fail together as a state. And that is really to me the spirit, what it means to be living in Hawaii. It's about us.

"All of our islands have needs, Mr. Speaker. On Maui, as it was indicated earlier, we needed help with our hospital. The State got together and they provided that need. On the Big Island, they needed help with the lava in a particular region, Mr. Speaker, and the State got together and primarily provided that support.

"It's also been mentioned, Mr. Speaker, that maybe we should just stop the project. Maybe we should just stop and leave it as it is. Well, Mr. Speaker, the Federal Government has already committed and spent almost \$1 billion. And the Federal Government, unfortunately, reserves the right to demand that money back if we don't continue. So this is very concerning to me, Mr. Speaker.

"So what happens if we stop, we don't move forward? Are we going to have the resources to give that money back? Because we'll have to. And then are we going to leave it up or are we going to tear it down? It was indicated earlier that that might cost billions of dollars to do so.

"So Mr. Speaker, these are the variables that I am also considering while we are looking at this particular bill. And that's not even the worst of it to me, Mr. Speaker."

Representative Ohno rose to yield his time, and the Chair "so ordered."

Representative Woodson continued, stating:

"Thank you, sir. Because if we back out of our contractual obligations, Mr. Speaker, do we really think that the Federal Government is going to take us seriously moving forward? They will not. They will take a look at other states, the ones that adhere to their contracts, and that's where their money will flow. So not only will we have to pay back \$1 billion, not only will we spend billions of dollars tearing it down, Mr. Speaker, but we will not enjoy federal funding support in the future. So are we willing to do that, Mr. Speaker? Because we need our federal funding for many different projects.

"So in closing, Mr. Speaker, this is what I would like for the body to consider. This is the decision that we have in front of us. All of us will be impacted if this thing doesn't go through. Many of us don't like this proposal, I don't like this proposal, but it's the proposal that we have. And I ask my colleagues for their support."

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

"Thank you, Mr. Speaker. In support. And I'm not going to repeat a lot of the things that people have said, but I would like to take some time to thank certain individuals. I would like to thank you and the President for bringing us together and continuing to, sometimes force us to, negotiate, even if we didn't want to.

"If people had told me at the end of May that we would be here dealing with a special session to discuss rail, I would not have believed it, because the relationship between the House and the Senate ended so badly. It took a lot of resolve and a lot of people putting aside all their anger and distrust to come together. And I think it was because of the Senate President and you putting us, both me and the Chair of Transportation and the Senate counterparts, to have us continue that discussion and have us come to a compromise.

"And we want to thank the members of the public who have chimed in on this difficult issue. We want to thank our colleagues, both in the House and the Senate. I think the reasons why we have this bill have been very well articulated by members of this House and I want to thank them.

"I also want to thank Budget and Finance. We have ran so many scenarios, and we have used Budget and Finance, who was not familiar with this project, and to work with HART and to work with the city to come out with figures and amounts that the State Legislature felt comfortable.

"I specifically want to thank Donovan Dela Cruz, I'm not sure if it's appropriate for me to say his name, but the Senator from Wahiawa, because he has invested a lot of time, as you could see through the Civil Beat 52-page PowerPoint that he did. I don't think I can do the types of things that he did. They spent, in a short amount of time, the information that we had to gather from various different departments and agencies, and I want to thank him.

"I also want to thank the former WAM Chair for setting the stage for where we are today. Some of these issues have been discussed at the end of session. And it was because of her wisdom and her hard work that we are here today.

"But my heartfelt gratitude, especially to the Senate President, coming from Kauai, who understood why we needed to front-load, why the project needed to be completed, why there needed to be this type of funding mechanism. My heart goes out to him.

"I also want to thank the Mayor. There was no single individual who was able to put people who were so angry together and galvanize together, I mean that jokingly. But I do want to thank the Mayor because it is tough. He had to come in front of several committees to get whacks from me and from other members. But we are here for our taxpayers, our joint taxpayers, and we have the responsibility to be accountable for the taxpayers. So I want to thank him and his administration and HART for their cooperation in providing the information.

"We were able to incorporate some of the suggestions that HART made last minute, so that we could ensure that the bill is real. So that HART can use this bill and the mechanisms in this bill to ensure that the reimbursement process, the payment process works, and something that they can work with, they can live with. So we want to continue to work with them. We want to thank HART for their work in crafting this bill.

"And I want to just thank all the staff members who have manned the various hearings. It was a lot of work, but I want to thank them. And thank everybody for being here because we have other commitments but you have chosen to be here to debate this important issue. So my heartfelt *aloha* to all of you folks. Thank you very much."



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

"Thank you, Mr. Speaker. Still in opposition. I just wanted to also echo the sentiments of the Finance Chair and also thank everybody for their time. I know it wasn't easy. I also want to thank all of you who are sitting up there, who didn't move at all and have sat through this whole thing, as well as on Wednesday night and throughout numerous hearings, where people sacrificed time.

"I think, for me, I've always had the promise that I gave to my district not to vote to raise or extend taxes and I'm going to stand by that. I do think that I'm in favor of public-private partnerships. I'm in favor of making sure there's informational hearings on the outer islands. I'm in favor of collecting all the TAT that's left on the table. I'm in favor of making sure that all the legal vacation rentals start to pay taxes. And I think there are so many ways forward for us to keep pushing the project while not expending more taxpayer dollars.

"But I am grateful for this robust discussion. I'm thankful for all my colleagues for sharing their thoughts. Although some difficult, some easy, was not easy for a lot of us. So, I want to thank you as well, Mr. Speaker, for the time, and continue to support the direction we go while still listening to our constituent's voices. Thank you."

Representative Nakashima rose in support of the measure and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Nakashima's written remarks are as follows:

"It is unfortunate that many people are claiming that the transient accommodations tax (TAT) is a neighbor island tax. The Hawaii Lodging & Tourism Association testified that 90-99% of the hotel rooms are rented to tourists. The TAT is a state tax on hotel rooms across the State and passed on to those staying in hotel rooms for short stays less than six months. It was never a 'neighbor island' tax.

"The idea that this is making neighbor islanders pay for the Honolulu rail is also an unfair generalization. Currently, 71% of general excise tax (GET) collections, or \$564 million per-month, is collected on Oahu, while 11%, or \$34 million, is collected on Hawaii Island. The state's payroll expenditure alone—not counting program expenditures or capital improvement projects on Hawaii Island—already amounts to \$39 million.

"Hawaii Island's economy could NOT finance major capital improvement projects without help: Kealahou (1997); Keaau High School (1999); UH's Ka Haka 'Ula O Ke'elikōlani College of Hawaiian Language, the new science building, the new student services building, Hale Ala'honua dormitory, and the Daniel K. Inouye College of Pharmacy at UH Hilo; renovations and a new building at the North Hawaii Education and Research Center; and the Palamanui Campus in West Hawaii are all made possible by state funding resulting from GET and TAT revenue deposited into the State's general fund.

"The reality is that if this becomes an island versus island project/taxation, then the Big Island loses. The Big Island receives far more revenue from the State than we generate in taxes. Hilo Airport alone loses \$7.3 million per year, which loss is subsidized by the other islands. Our current TAT allocation is subsidized by the other islands because we get more back than we contribute to it. It has also been suggested that we are short-changing the county for services which some people claim was the purpose for creating the TAT. In actuality, the TAT was created by the Legislature in 1986 with all revenues being deposited into the state general fund (Act 340, Session Laws of Hawaii, 1986). It was not until 1991 that the State provided an allocation of the TAT to the counties (Act 185, Session Laws of 1990).

"It would be easy for me to do the easy thing and vote 'no' on Senate Bill 4, which is what some on Hawaii Island would have me do. However, by doing so the State would go back on its commitment with the Federal Government and jeopardize future projects with federal grants to build our highways, like the Daniel K. Inouye Saddle Road, and replace aging bridges, like at Umauma. Senator Brian Schatz and Congresswoman Colleen Hanabusa stepped in because if the rail funding collapsed, they would have difficulty getting future federal funding for us all.

"The insertion in this bill of an additional \$10 million of TAT for the neighbor islands came about due to the advocacy of neighbor island Representatives. We wanted a safety net because, frankly, if the Big Island gets 'its fair share of TAT,' our percentage share would be less than what it is now. We receive 18.6% of the statewide TAT allocation when our actual visitor arrivals is only 14.7%. The insertion of a \$103 million TAT base for neighbor islands was also part of such advocacy. So if the tourist industry's prediction of a loss in visitors occurs, Hawaii Island will still have its full share of TAT.

"It has also been suggested that raising the TAT by 1% would result in the loss of tourists and jobs on Hawaii Island. That 1% on a hotel room costing \$300 a night amounts to \$3. I don't believe that \$3 would be noticed when they are also paying \$16 plus for parking per day or their \$25 resort fees. Also, later this month, Japan Airlines will resume daily non-stop flights from Japan to Ellison Onizuka Airport in Kona. When Japan Airlines ended this daily service in 2010, they had been bringing 70,000 Japanese visitors directly to the Big Island. Beginning in December, Hawaiian Airlines will be flying three direct flights a week from Japan to Kona airport, bringing more than 700 additional visitors per week. In order to accommodate this, the State will have to invest an additional \$50 million to support Hawaii Island tourism to build a new customs and immigration facility in Kona. Undoubtedly, many of these new visitors will be staying in hotels on Hawaii Island.

"We are one state. One state separated by water but not by need. Each island has critical work and projects that must be funded to help its residents. We support each other as needs arise, and a half-built rail project helps no one."

Representative San Buenaventura rose to respond, stating:

"I apologize, Mr. Speaker, I still stand in support with reservations. I just want to point out, and I know this is my second time, that I voted no in 2015 because I could see the boondoggle. But as the Representative from Wailuku, from Maui, had stated, it is already being built. And as the Representative from Ewa pointed out, it will take \$3.4 billion to bring it down.

"So I hate being put in this position. I hate the fact that the Mayor has come in again, after 2015, to come in front of us and asking for more money. I hate the fact that the county council is pitting us against you folks. In fact, it is so easy for us neighbor island Representatives to vote no, and I applaud those who will vote yes on this. Because it is us who will need to come back to you folks next year to beg for more TAT funds for the neighbor islands.

"And I hope the rest of Oahu, the rest of you folks, will look kindly at us neighbor islanders when we ask you for our grants in aid, and not listen to the Facebook posts of our county council brethren who would have us burn rail down. And for those reasons, I stand in support. We are in favor of keeping our relationships with the Federal Government as well as with you folks. Thank you."

Representative Ito rose in support of the measure and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Ito's written remarks are as follows:

"Mr. Speaker, I rise in support of SB 4. I voted yes on SB 1183, SD 2, HD 2, CD 2 in the 2016 legislative session which extended the GET for 10 years. Although I preferred SB 1183, I am still voting yes on SB 4 even though I do not prefer the TAT tax."

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

Representative Luke submitted the following documents:

1. Proposed Honolulu Rail Funding Bill Fact Sheet



HAWAII STATE LEGISLATURE

PROPOSED HONOLULU RAIL FUNDING BILL FACT SHEET

Funding Rail Through Extending the GET

- Extends the current general excise tax (GET) surcharge on Oahu for three additional years, from December 31, 2027 through December 31, 2030. This will provide \$1.046 billion.
- Reduces the State Department of Taxation's administrative fee on the GET surcharge from 10 percent to one percent.
- Having both GET and TAT sources of funding for the City and County's rail project also provides greater security for the project in case either the GET or TAT does not perform as expected.

Funding Rail Through Raising the TAT

- Raises the hotel room tax charged to visitors (Transient Accommodation Tax) by one percent from 9.25 percent to 10.25 percent for 13 years, from January 1, 2018 to December 31, 2030. This also applies to timeshares. This will provide \$1.326 billion.
- Increasing the TAT by one percent (to 10.25 percent) for 13 years (through 2030) is a small amount that empirical studies find is unlikely to negatively affect tourism. Research by several UH economics professors found that the increases to the five percent TAT of 1987 did not have a statistically significant adverse impact on visitor arrivals. The TAT has been raised four times since its enactment in 1987.
- A one percent increase in TAT has a minimal impact for tourists.

Example: on a \$200 hotel room, a visitor now pays \$18.50 TAT per night. With the TAT increase, a visitor would pay \$20.50 per night, an additional \$2 per night.

- The hotel room tax is collected statewide and goes directly into the general fund, not to the island where it is collected. Each county receives a specified share of the tax regardless of total amounts collected. Raising the tax does not change each counties specified amount.

Increasing Funding to Counties

- Permanently increases the counties' share of the TAT from its current \$93 million base to \$103 million every year.

Increasing Accountability

- Requires a state-run audit of the rail project and annual financial reviews to help HART address its numerous deficiencies leading to cost overruns and delays.
- All funds collected for rail go into a newly-created Mass Transit Special Fund. Rather than simply giving the money to the City, the State Comptroller will reimburse the City for its costs as the project moves forward. This will allow the state to keep track of both spending and construction progress.
- Currently, the GET surcharge is automatically transferred to the city on a quarterly basis without any oversight. This bill will change that practice to ensure accountability and transparency by having the Comptroller review and approve the expenses before the City and HART are reimbursed. It also establishes better internal control and ensures that waste and fraud does not occur.
- This bill addresses the immediate rail construction shortfall of \$2.378 billion by collecting funds upfront through a small TAT increase instead of adding additional years of GET surcharge on the back end. This will likely reduce the financing costs of the project by hundreds of millions of dollars.
- Disallows funds to be used for anything other than construction costs.

2. Executive Summary of Potential Funding for Rail

Executive Summary of Potential Funding for Rail

August 23, 2017

Descriptions (Including Assumptions)	Worksheet 1 GET Oahu Only & TAT All Islands
<b>GET Growth Rate</b> (Per Department of Taxation is 4.5%; worksheet adjusted for growth rate of 3% per FTA)	3%
<b>TAT Growth Rate</b> (Average of past 29 years' growth rate)	8%
<b>Total Project Costs</b> (Based on HART's May 26, 2017 Financial Projection: Breakeven Analysis Schedule)	\$8.165 billion
<b>Total Bond Financing Costs</b> (Based on HART's financing schedule)	\$1.399 billion
<b>Adjustment</b> for \$21 million per year of revenues for Rail operations through financing period	\$(281 million)
<b>Adjustment</b> for estimated cost of marketing (\$51 million from 2012 – 2017; \$10 million thereafter for 10 years)	\$(151 million)
<b>Adjustment</b> for estimated financing cost savings from receiving TAT collections	\$(208.6 million)
<b>Total Project &amp; Financing Costs &amp; Adjustment</b>	<b>\$8.923 billion</b>
<b>Total GET Tax Collections 1/1/2007 – 6/30/2017</b>	\$1.978 billion
<b>Total Projected GET Revenues 7/1/2017 – 12/31/2027</b>	\$3.010 billion
<b>Total Federal Grant</b>	\$1.55 billion
<b>Total Other Sources</b> (Based on HART's May 26, 2017 Financial Projection: Breakeven Analysis Schedule)	\$7 million
<b>Total Tax Revenues, Federal Grant &amp; Other Sources</b>	<b>\$6.545 billion</b>
<b>TARGETED FUNDING SHORTFALL</b>	<b>\$2.378 billion</b>

1. GET from CY2028 – CY2030 (\$1,046,400,521) plus additional 1% TAT from CY2018 – CY2030 (\$1,326,867,668) = \$2,373,268,189

1

Executive Summary of Potential Funding for Rail

August 23, 2017

**TOTAL ESTIMATED FUNDING FROM THE GET SURCHARGE AND TAT REVENUES**

Description	Amounts
• Total GET Tax Collections 1/1/2007 – 6/30/2017	\$1.978 billion
• Total Projected GET Revenues 7/1/2017 – 12/31/2027	\$3.010 billion
• Total Projected GET Revenues from 1/1/2028 – 12/31/2030 (\$1,046,400,521) plus additional 1% TAT Revenues from 1/1/2018 – 12/31/2030 (\$1,326,867,668)	\$2.373 billion
• <b>Total Estimated Funding by the State Legislature from the GET Surcharge and TAT Revenues</b>	<b>\$7.361 billion</b>

Currently, the GET Surcharge is disbursed to the City & HART on a quarterly basis. The disbursement schedule to the City & HART for the TAT collections could impact the funding needed to meet any shortfall. More frequent disbursements (monthly or quarterly) could have a positive impact as opposed to a less frequent disbursement schedule (semi-annual or annually) which could have a negative impact on the funding of the shortfall.

NOTE: The Department of Budget and Finance relied upon project development, construction and financing costs as provided by HART as B&F does not have any additional data or information to validate and/or analyze the projected cost of the Project.

Furthermore, this analyses provides no examination of the operating costs of the HART system. HART should specifically address how all operating and maintenance cost of the HART system will be funded, without State subsidies.

2

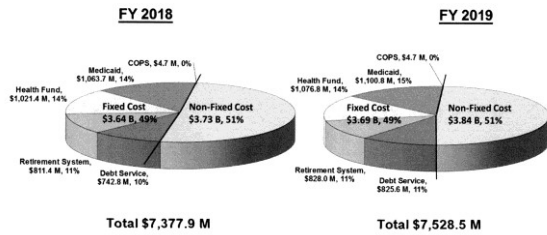




7. Additional Handouts from the State of Hawaii Department of Budget and Finance and HART

8. Special Session 2017 Rail Funding Information and Analysis [Note: Information extracted from a slide presentation and reformatted for the Journal.]

FB 17-19 Operating Budget  
Statewide Totals by Fixed vs. Non-Fixed - General Funds



Allocation of State's General Funds

Description	FY 2017	%
General Fund Tax Revenues	\$6.4 billion	100%
General Fund Expenditures:		
Salaries	\$2.3 billion	35.9%
Pension & Health Benefit Contributions	\$1.5 billion	23.4%
Debt Service Payments	\$0.7 billion	10.9%
Medicaid Contributions	\$1.0 billion	15.6%
Social Security & Medicare Contributions	\$0.24 billion	3.8%
Others	\$0.66 billion	10.4%

8/25/2017  
 General Assumptions:  
 1. GET growth rate 3.0%  
 2. GET growth rate 4% interest per annum.  
 3. Fixed rate debt at 4% interest per annum.  
 4. Debt service payments from first month of insurance.  
 5. Debt insurance at GET interest.  
 6. Federal grant draw down totaling \$743 million suspended from August 2017 to June 2018. Draw down anticipated to resume in July 2018.  
 7. Total project cost at \$6.165 billion.  
 Assumptions specific to this Model:  
 1. General revenue tax sunset on December 31, 2020.  
 2. TAT revenues grow at 8% per year.  
 3. Additional 10% increase on all remaining capital costs.  
 4. City prices up remaining HART admin costs from 1/1/2018 (A) Actual through 1/30/2017; projected May-June 2018

STRESSED

City and County of Honolulu / HART  
 GET and Statewide TAT at 1% GET & TAT Sunset on 12/31/20 City Pickup of Remaining HART Admin Costs  
 8/23/2017  
 GET Growth Rate from 3.0%; TAT Growth Rate 8%

Account to	01/2017	Est. 2018	Est. 2019	Est. 2020	Est. 2021	Est. 2022	Est. 2023	Est. 2024	Est. 2025	Est. 2026	Est. 2027	Est. 2028	Est. 2029	Est. 2030
Beginning Cash Balance	4308	4455	4621	4794	4974	5161	5354	5553	5757	5967	6182	6403	6630	6864
Project Costs	11,200	11,200	11,200	11,200	11,200	11,200	11,200	11,200	11,200	11,200	11,200	11,200	11,200	11,200
Net Current Change	(10,762)	(10,745)	(10,579)	(10,406)	(10,221)	(10,034)	(9,845)	(9,654)	(9,461)	(9,266)	(9,069)	(8,870)	(8,669)	(8,466)
Ending Cash Balance	364	310	242	164	73	(121)	(271)	(420)	(568)	(715)	(861)	(1,006)	(1,150)	(1,294)

Special Session 2017  
Rail Tax Surcharge

Table of Contents

1. History of project
2. Who is the Honolulu Authority for Rapid Transportation
3. Project costs
4. Project reports and recommendations
5. Possible options for the construction of rail
6. References

History of project

How did we get here?  
Hawaii State Legislature

- ▶ 2006 – Act 247, SLH 2005 granted county surcharge up to 0.5% on the GET to fund county public transportation systems.
  - ▶ Projected cost: \$3.6B
- ▶ 2015 – Legislature and City Council approved an extension of the surcharge through 2027.
  - ▶ Projected costs: \$6.57B
  - ▶ Five-year extension of the GET (2022-2027) was anticipated to yield \$1.2B in additional funds.
- ▶ 2017 – the City sought an GET extension via SB1183.
  - ▶ Projected costs: \$8.2B
  - ▶ Includes contingency funds
  - ▶ Excludes debt service (\$10B projected cost with rail financing)

Charter Amendments voted on by Oahu residents

- ▶ 2008 Charter Amendment: "Shall the powers, duties and functions of the city, through its director of transportation services include the establishment of a steel wheel on steel rail transit system?"
  - The vote was: Yes: 52.6% No: 47.4%
- ▶ 2010 Charter Amendment: "Shall the Revised City Charter be amended to create a semi-autonomous public transit authority responsible for the planning, construction, operation, maintenance, and expansion of the City's fixed guideway mass transit system?"
  - The vote was: Yes: 68.6% No: 31.4%
- ▶ 2016 Charter Amendment: "Should a unified multi-modal transportation system be created?"
  - The vote was: Yes: 69% No: 32%

Collection of funds to date

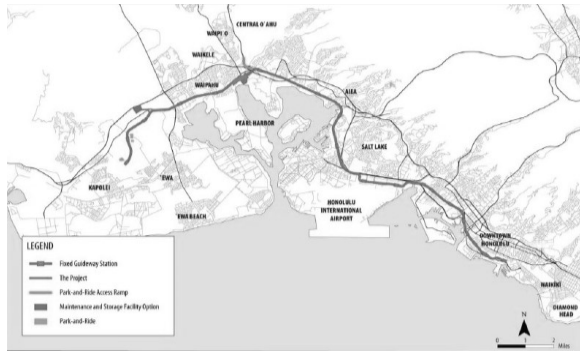
GET Surcharge

- ▶ Projected revenue totals \$5.2B from the inception of the surcharge on January 1, 2007, through the current sunset date of December 31, 2027.
- ▶ As of July 31, 2017 – HART has received \$1.98 billion from the GET surcharge.

Federal Funds

- ▶ \$1.55B federal Full Funding Grant Agreement (FFGA) approved in 2012 to pay for the construction of Honolulu's rail project.
- ▶ FTA has obligated \$806 million – HART has a drawdown on \$794.3 million through July 18, 2017.
- ▶ Remaining obligation: \$743.7 million

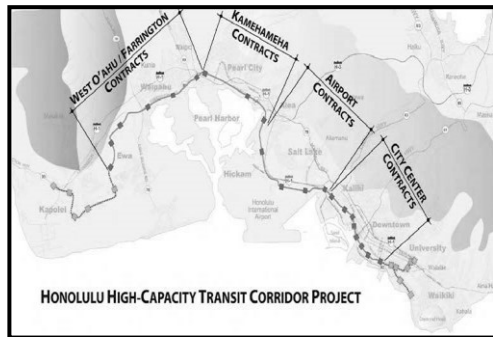
Source: Honolulu Authority for Rapid Transportation



Source: PMOC Report – 2016 Risk Refresh

Phases of Construction

- ▶ Segment I (West Oahu/Farrington Hwy)
  - ▶ E. Kapolei to Pearl Highlands (7 miles/6 stations)
- ▶ Segment II (Kamehameha Hwy)
  - ▶ Pearl Highlands to Aloha Stadium (4 miles/3 stations)
- ▶ Segment III (Airport)
  - ▶ Aloha Stadium to Middle Street (5 miles/4 stations)
- ▶ Segment IV (City Center)
  - ▶ Middle Street to Ala Moana Center (4 miles/8 stations)



Source: PMOC Report – 2016 Risk Refresh

Major project delays

- ▶ \$172M in legal delay costs related to:
  - Notice to Proceed
  - Archaeological Inventory Survey
  - Traditional Cultural Property have incurred
- ▶ The West Oahu/Farrington Highway Guideway section incurred a total delay of 23.5 months and \$107M in costs
- ▶ Protests by unsuccessful vendors over the Design-Build-Operate-Maintain contract resulted in a 9-month delay in awarding the contract and a \$8.7M settlement of delay claims
- ▶ "Premature" notice to proceed on contracts

Other costs related to construction

- ▶ Change Orders
  - HART Board approved nearly \$15M in additional change orders in March 2017 to help cover changes of prematurely awarded construction contracts.
  - \$65M unresolved change orders Kiewit
  - HART has already approved more than \$284M in change orders to Kiewit, including \$57M in 2014.
  - \$27M for Ansaldo in change orders
- ▶ HART Administration/Staff
  - \$22.9 million
  - Eminent Domain (cost of acquiring parcels along rail route)
- ▶ Contingency - \$1.1B in allocated and unallocated contingency
  - The FFGA included \$644M in allocated and unallocated contingency

Who is HART?

Who is the Honolulu Authority for Rapid Transportation (HART)?

- ▶ HART is responsible for the planning, construction and expansion of the Honolulu Rail transit project.
- ▶ Semi-autonomous agency established on July 1, 2011 through an amendment to the Revised Charter of the City and County of Honolulu.
- ▶ KRISHNIAH N. MURTHY, P.E., F. ASCE, Interim Executive Director of HART. (Term December 5, 2016 to September, 2017)
- ▶ ANDREW ROBBINS – new executive director to start in September, 2017.
- ▶ HART is governed by a 10-member volunteer Board of Directors, serving five-year staggered terms.

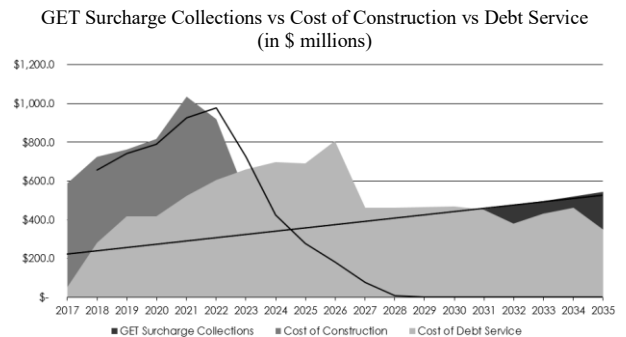
Source: Honolulu Authority for Rapid Transportation

HART Board of Directors



Source: Honolulu Authority for Rapid Transportation

Project costs



Source: State of Hawaii Department of Budget and Finance; Honolulu Authority for Rapid Transportation

Estimated cost for completion

Contract Summary Status	Estimate at Completion
Active Contracts (includes allocated contingency)	\$ 4,129,313,000
Unawarded Construction (includes allocated contingency)	\$ 1,928,548,000
Staff and Consultants (includes allocated contingency)	\$ 1,286,632,000
Completed Contracts	\$ 546,950,000
Unallocated Contingency	\$ 273,641,000
<b>Total Capital Project (excludes financing costs)</b>	<b>\$ 8,165,084,000</b>

Cost and Percentage Completion of Major Contracts Awarded:

- ▶ West Oahu/Farrington Highway Guideway (\$662M, 97.1%); Kamehameha Highway Guideway (\$82M, 88.9%); Maintenance and Storage Facility (\$274M, 100%); Core Systems (\$601M, 43.0%); and Airport Section Guideway and Stations Group (\$875M, 5.0%).

- ▶ HART currently has over \$4.27B in either completed or awarded contracts, which include 15.9 of the 20.1 miles of guideway and 13 of the 21 stations.
- ▶ The Project plans to procure the City Center Section Guideway and Station Group Design-Build (CCGS) package and the Pearl Highlands Garage and Transit Center (PHGT) DB package in 2018.

Project reports and recommendations

Porter & Associates, Inc. Report  
Jan. 2012 and Sept. 2012

- ▶ The Project will require an additional \$80.6 million in operating subsidies in its first full year of operation (2020).
- ▶ The City would need to achieve a lower rate of growth in non-transit uses of General Fund and Highway Fund revenues.
- ▶ Stress tests determined that the City would have the financial capacity to withstand a 10% increase in Project cost, and a lower rate of growth in GET surcharge revenues.
- ▶ Tests indicated that the City could incur an additional debt obligation of \$373.2M, and may need to fund between \$70.9M and \$123.1M in rail operating and capital costs that would need to be satisfied from other, non-Project revenues available to the City.

Project Management Oversight Contractor Report  
2016 Risk Refresh Report

- ▶ Jacobs Engineering Group, Inc. was assigned by the FTA in 2009 to monitor the Project and provide "information and well-grounded professional opinions regarding the reliability of the project scope, cost, and schedule".
- ▶ Lack of attention on risk, cost containment and management of the project.
- ▶ Poor management of the design build contracts.
- ▶ Lack of technical capability on staff.

Federal Transit Administration  
Requesting a financial plan by September 15<sup>th</sup>

**HART**  
HONOLULU AUTHORITY FOR RAPID TRANSPORTATION

IN REPLY REFER TO:  
CMS-APO0-02212

July 24, 2017

The Honorable Ronald D. Kouchi, President  
State Senate  
Hawaii State Capitol  
415 South Beretania Street, Room 409  
Honolulu, Hawaii 96813

The Honorable Donovan M. Dela Cruz, Chair  
Senate Committee on Ways and Means  
Hawaii State Capitol  
415 South Beretania Street, Room 208  
Honolulu, Hawaii 96813

The Honorable Lorraine R. Inouye, Chair  
Senate Committee on Transportation and Energy  
Hawaii State Capitol  
415 South Beretania Street, Room 210  
Honolulu, Hawaii 96813

The Honorable Scott K. Saiki, Speaker  
State House of Representatives  
Hawaii State Capitol  
415 South Beretania Street, Room 431  
Honolulu, Hawaii 96813

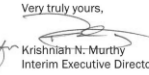
The Honorable Sylvia J. Luke, Chair  
House Committee on Finance  
Hawaii State Capitol  
415 South Beretania Street, Room 306  
Honolulu, Hawaii 96813

The Honorable Henry J.C. Aquino, Chair  
House Committee on Transportation  
Hawaii State Capitol  
415 South Beretania Street, Room 419  
Honolulu, Hawaii 96813

Dear President Kouchi, Speaker Saiki, Senator Dela Cruz, Representative Luke, Senator Inouye, and Representative Aquino:

Attached is a letter received by the Honolulu Authority for Rapid Transportation (HART) on July 24, 2017, from the Federal Transit Administration Executive Director Matthew J. Welbes, requesting an updated Financial Plan by September 15, 2017 sufficient to deliver the total Project. We look forward to providing any assistance you may need in the upcoming Special Session.

If you should have any questions regarding this matter, please do not hesitate to contact our office.

Very truly yours,  
  
Krishnlah N. Murthy  
Interim Executive Director and CEO

Attachment

cc: The Honorable David Y. Ige, Governor  
The Honorable Brian Schatz, Senator  
The Honorable Mazie Hirono, Senator  
The Honorable Tuli Gabbard, Congresswoman  
The Honorable Colleen Hanabusa, Congresswoman  
All Members of the State Senate  
All Members of the House of Representatives  
The Honorable Ron Menor, Chair, and All Members of the Honolulu City Council

CITY AND COUNTY OF HONOLULU, Alii Place, Suite 1700, 1099 Alakea Street, Honolulu, Hawaii 96813  
Phone: (808)768-6159 Fax: (808)768-5110 www.honolulurapid.org



Executive Director

HART

17 05 -7 11 :12  
1200 New Jersey Avenue, SE  
Washington, DC 20590

JUL 24 2017

Mr. Krishnlah Murthy  
Interim Executive Director and Chief Executive Officer  
Honolulu Authority for Rapid Transportation  
1009 Alakea Street, Suite 1700  
Honolulu, HI 96813

Dear Mr. Murthy:

As we discussed during our meeting on June 12, 2017, the Recovery Plan submitted by the Honolulu Authority for Rapid Transportation (HART) on April 28, 2017 for the Honolulu Rail Transit Project (Project) is inadequate. The Recovery Plan does not include a financial plan with funding sufficient to cover HART's current estimated total Project cost. After our meeting, on June 16, 2017, I received a joint letter from the President of the State Senate and the Speaker of the House of Representatives of the Hawaii State Legislature committing to a special session and communicating their resolve to craft a solution that will provide the City and County of Honolulu with a dedicated revenue stream sufficient to complete the Project described in the Full Funding Grant Agreement (FFGA).

The Federal Transit Administration (FTA) has worked with HART and communicated the critical need for a viable financial plan since our August 2015 request for additional information about the project budget and schedule. The FTA has highlighted the need for action while working with you to identify potential solutions that would fulfill HART's obligations under the FFGA.

We have noted the Hawaii Legislature leadership's intent to hold a special session during late August and will expect to hear from HART shortly thereafter, providing a financial plan sufficient to deliver the total Project by September 15, 2017. Absent receipt of a viable financial plan, FTA will be required to consider its remedies as set forth in the FFGA.

Please contact FTA's Region IX Administrator Leslie Rogers or me if you have any questions.

Sincerely,  
  
Matthew J. Welbes

Cc: Mayor Kirk Caldwell

Possible options for rail construction

Areas of common ground

- ▶ Lands acquired by City (parcels sitting vacant/inactive)
- ▶ HART administration costs (\$22M) to be paid for by the City –not out of the GET surcharge
- ▶ Limit how much can be spent on marketing
- ▶ Consider prohibiting City from billing departments (i.e. Corp Counsel)
- ▶ Reduce the State's administrative fee to 1%
- ▶ Tax Foundation lawsuit on 10% administration fee – use future allocations to payback
- ▶ Possibility of drawdown method of disbursing funds

Conference Draft: SB1183 SD2 HD2 CD1

- ▶ GET Surcharge sunsets in 2027\*\*
- ▶ 12% TAT (Increase of 2.75%) from 2018-2027
- ▶ Requiring TAT and Surcharge funds to be spent on capital costs of a mass transit project (not operating or administrative costs)
- ▶ State Administration fee for TAT decreases from 10% to 1%
- ▶ Allocate \$50M to the New Start Education Fund from 2018-2027
- ▶ Decreasing TAT allocation to counties from \$103M to \$93M from 2018-2027
- ▶ Honolulu's portion of TAT allocation (\$13M = 44.1%) must go to fund rail from 2018-2027
- ▶ Prohibits the use of public funds for reconstruction or redevelopment of an event venue for counties already collecting GET surcharge for a mass transit project

2.75% Increase of Statewide TAT	\$ 2,282,940,086
44.1% share of Honolulu TAT	\$ 130,000,000
New Start Education Fund	\$ (500,000,000)
Total (2027):	\$ 1,912,940,086

\*\*Current projections already include GET surcharge until sunset 2027. This chart shows potential identified revenue sources.

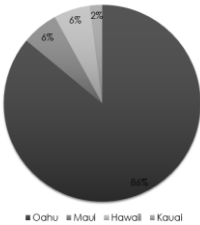
House Position: SB1183 SD2 HD2 HCD2 FA6

- ▶ Extend GET Surcharge to 2028
- ▶ Increase TAT 1% from 2018-2028
- ▶ Requiring TAT and Surcharge funds to be spent on capital costs of a mass transit project (not operating or administrative costs)
- ▶ State Administration fee for TAT decreases from 10% to 1%
- ▶ Allocate \$25M to the New Start Education Fund from 2018-2028
- ▶ Increasing TAT allocation to counties to \$103M from \$93 M from 2018-2028
- ▶ Prohibits the use of public funds for reconstruction or redevelopment of an event venue for counties already collecting GET surcharge for a mass transit project

Surcharge <b>Oahu Only</b> 99% of GET	\$ 398,697,478
1% of statewide TAT	\$ 958,301,113
New Start Education Fund	\$ (250,000,000)
Total (2028):	\$ 1,106,998,591

Statewide Total Tax Collections

Total Tax Collections by County June 2017

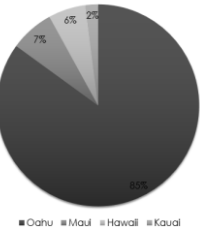


County	Estimate June 2017 Monthly Collections	% of Total	Actual June 2017 Monthly Collections (as of Aug 2017)	% of Total
Oahu	\$ 546,243,168	87%	\$ 569,829,185	86%
Maui	\$ 35,570,292	6%	\$ 39,676,000	6%
Hawaii	\$ 34,648,222	5%	\$ 37,674,989	6%
Kauai	\$ 13,909,593	2%	\$ 15,915,467	2%
Total:	\$ 630,371,275	100%	\$ 663,095,642	100%

Source: State of Hawaii Department of Budget and Finance and Department of Taxation

Statewide GET Collections

GET Collections by County June 2017

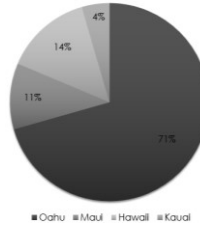


County	Monthly Collections June 2017	% of Total
Oahu	\$ 229,287,910	85%
Maui	\$ 18,377,337	7%
Hawaii	\$ 15,727,404	6%
Kauai	\$ 6,504,387	2%
Total:	\$ 269,879,037	100%

Source: State of Hawaii Department of Budget and Finance and Department of Taxation

Statewide GET Allocations (payroll)

Payroll by County July 2017



Payroll by Island (\$ in thousands)				
District	7/5/2017	7/20/2017	Total July	%
Hawaii	\$19,624	\$19,532	\$39,157	13.8
Oahu	\$97,436	\$97,139	\$194,575	68.8
Molokai	\$659	\$628	\$1,287	0.5
Kauai	\$6,175	\$6,129	\$12,305	4.3
Maui	\$14,056	\$13,548	\$27,604	9.8
Lanai	\$348,912	\$327,355	\$676	0.2
None	\$3,027	\$4,261	\$7,289	2.6
Total	\$141,328	\$141,567	\$282,895	100%

Source: State of Hawaii Department of Budget and Finance

Monthly County GET Collections FY2016 – 2017

	OAHU	%	MAUI	%	HAWAII	%	KAUAI	%	STATEWIDE
2017 June	\$ 229,287,910	85%	\$ 18,377,337	7%	\$ 15,727,404	6%	\$ 6,504,387	2%	\$ 269,897,037
May	\$ 229,820,483	84%	\$ 19,361,208	7%	\$ 16,225,993	6%	\$ 7,306,991	3%	\$ 272,714,675
April	\$ 235,759,799	84%	\$ 19,519,475	7%	\$ 17,112,098	6%	\$ 7,226,394	3%	\$ 279,617,765
March	\$ 212,838,964	83%	\$ 19,232,727	8%	\$ 16,884,613	7%	\$ 6,814,523	3%	\$ 255,770,826
February	\$ 235,504,209	84%	\$ 19,490,791	7%	\$ 18,094,736	6%	\$ 7,971,734	3%	\$ 281,061,469
January	\$ 253,464,621	86%	\$ 18,195,464	6%	\$ 16,434,478	6%	\$ 6,966,207	2%	\$ 295,060,770
2016 December	\$ 207,938,849	85%	\$ 17,237,981	7%	\$ 13,944,644	6%	\$ 6,036,753	2%	\$ 245,158,227
November	\$ 225,815,226	86%	\$ 15,459,057	6%	\$ 13,826,915	5%	\$ 6,153,243	2%	\$ 261,254,440
October	\$ 235,304,830	85%	\$ 18,864,787	7%	\$ 15,957,558	6%	\$ 7,448,228	3%	\$ 277,575,402
September	\$ 235,607,026	86%	\$ 16,847,111	6%	\$ 15,243,767	6%	\$ 7,299,440	3%	\$ 274,997,344
August	\$ 241,193,056	90%	\$ 15,238,687	6%	\$ 5,054,933	2%	\$ 6,960,066	3%	\$ 268,446,743
July	\$ 225,834,415	88%	\$ 6,827,203	3%	\$ 17,327,700	7%	\$ 7,681,277	3%	\$ 257,670,596
TOTAL FY17	\$2,768,369,387	85%	\$204,651,826	6%	\$181,834,839	6%	\$84,369,242	3%	\$3,239,225,294

Source: State of Hawaii Department of Budget and Finance and Department of Taxation

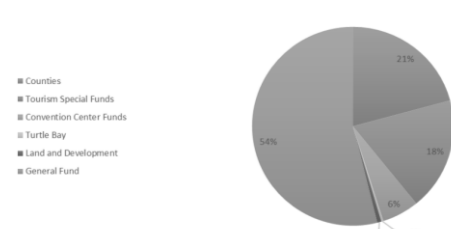
Monthly County TAT Collections FY2016 – 2017

	OAHU	%	MAUI	%	HAWAII	%	KAUAI	%	STATEWIDE
2017 June	\$ 26,602,805	75%	\$ 3,831,712	11%	\$ 2,738,122	8%	\$ 1,954,127	6%	\$ 35,126,766
May	\$ 33,531,021	77%	\$ 4,669,467	11%	\$ 3,356,994	8%	\$ 2,240,040	5%	\$ 43,797,522
April	\$ 29,753,496	73%	\$ 4,993,989	12%	\$ 3,782,475	9%	\$ 2,119,114	5%	\$ 40,649,074
March	\$ 31,455,485	75%	\$ 4,843,511	12%	\$ 3,654,454	9%	\$ 2,038,663	5%	\$ 41,992,113
February	\$ 38,668,517	76%	\$ 5,295,453	10%	\$ 4,289,785	8%	\$ 2,796,437	5%	\$ 51,050,192
January	\$ 36,008,613	77%	\$ 4,611,520	10%	\$ 3,362,353	7%	\$ 2,586,243	6%	\$ 46,568,729
2016 December	\$ 24,176,733	78%	\$ 3,323,893	11%	\$ 2,092,990	7%	\$ 1,601,212	5%	\$ 31,194,828
November	\$ 25,858,142	79%	\$ 3,127,132	10%	\$ 1,982,008	6%	\$ 1,815,875	6%	\$ 32,783,156
October	\$ 28,869,931	81%	\$ 2,616,844	7%	\$ 2,272,422	6%	\$ 1,784,129	5%	\$ 35,543,327
September	\$ 32,149,967	81%	\$ 3,042,120	8%	\$ 2,424,324	6%	\$ 2,232,205	6%	\$ 39,848,616
August	\$ 67,643,459	98%	\$ 2,620,279	4%	\$ (3,129,130)	-5%	\$ 1,989,682	3%	\$ 69,124,290
July	\$ 50,658,531	125%	\$ (9,488,553)	-23%	\$ (2,477,686)	-6%	\$ 1,986,277	5%	\$ 40,678,568
TOTAL FY17	\$365,242,874	85%	\$24,986,188	6%	\$18,253,994	4%	\$20,949,838	5%	\$429,432,893

Source: State of Hawaii Department of Budget and Finance and Department of Taxation

Statewide TAT allocations

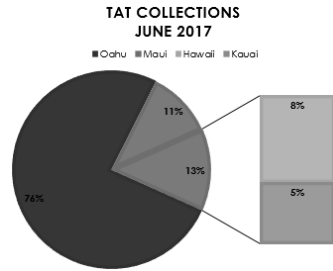
TAT ALLOCATIONS



Source: State of Hawaii Department of Budget and Finance



County TAT Collections and Allocations



County	Distribution (HRS 237-D)	% of \$103M (FY15-17)	% of \$93M (FY18)	June Visitor Arrivals
Oahu	44.1%	\$45.4M	\$41.0M	514,791
Maui	22.8%	\$23.5M	\$21.2M	261,769
Hawaii	18.6%	\$19.2M	\$17.9M	157,303
Kauai	14.5%	\$14.9M	\$13.5M	124,130

Source: UHERO, Mak 2016

Statewide TAT increases

Effect Date	Rate
January 1, 1987	5.0%
July 1, 1994	6.0%
January 1, 1999	7.25%
July 1, 2009	8.25%
July 1, 2010	9.25%

Source: The Auditor, State of Hawaii, 2015

"I would like to confirm that the increase in TAT tax rate over the past thirty years had no visible significant effect on the growth in the number of visitor arrivals to Hawaii based on the data I observed over many years I worked for the State of Hawaii as Chief of DBEDT Economic Research Program as well as Tax Research and Planning Officer..."

"I would like to note that ever since I worked as the principal technical staff of the Council on Revenues, members of Council on Revenues have not really changed their forecasts whenever the State increased the TAT rate from 6% to 7.25% to 9.25%. The Council on Revenues, in their forecast reports after each meeting, have never mentioned the impact of TAT rate on the number of visitor arrivals."

-Dr. Tu Duc Pham, Former DBEDT Chief Economic Research Branch and Tax Research and Planning Officer

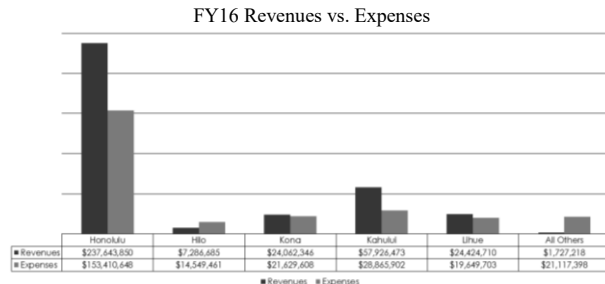
TAT Historical Growth Statewide (2006 - 2016)

	2016	2015	2014	2013	2012	2011	2010	2009	2008	2007	2006
TAT Total Revenues	\$446,794	\$420,981	\$395,242	\$368,576	\$323,950	\$284,472	\$224,250	\$210,622	\$229,388	\$224,942	\$217,008
% change	6.13%	6.51%	7.23%	13.78%	13.88%	26.85%	6.47%	-8.18%	1.98%	3.66%	

- Per B&F, 29 year average growth rate since inception in 1987 is 8.36%. Last 10-year average, including Great Recession, is 8.52%.
- The tax rate has increased incrementally from 7.25% to 9.25% over the course of the last 10 years.

Source: State of Hawaii Department of Budget and Finance

Transportation (Airports)



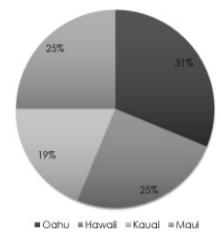
Source: State of Hawaii Department of Transportation

Transportation (Highways)

County	Gross Revenue	% Generated
Oahu	\$ 80,977,632	60%
Hawaii	\$ 23,546,086	17%
Kauai	\$ 9,809,793	7%
Maui	\$ 20,433,625	15%
Total	\$ 134,767,137	

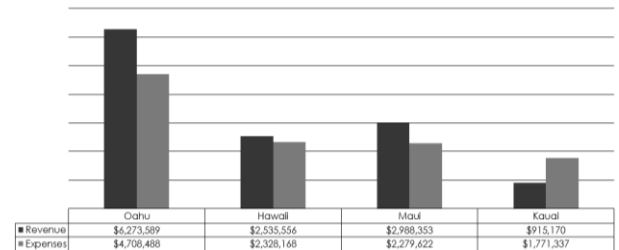
Source: State of Hawaii Department of Transportation

Highway Special Fund Allocations



Land and Natural Resources (Small Boat Harbors)

FY16 Revenues vs. Expenses



Source: State of Hawaii Department of Land and Natural Resources

Human Services (Medicaid, General Assistance, Homeless)

	OAHU		HAWAII		MAUI		KAUAI		TOTAL	
	# served	FY17 Expenditures	# served	FY17 Expenditures	# served	FY17 Expenditures	# served	FY17 Expenditures	# served	FY17 Expenditures
Medicaid	219,551	N/A	75,742	N/A	45,192	N/A	21,444	N/A	361,929	\$2,384,583,787
General Assistance (cash for individuals) June 2017	3,523	\$14,302,680	1,1421	\$5,861,992	478	\$1,925,890	230	\$939,981	5,652	\$23,030,543
TANF/TAONF (cash for families) June 2017	3,339	\$22,534,029	1,583	\$11,112,969	574	\$3,837,137	254	\$1,592,113	5,750	\$39,076,248
SNAP (food stamps) June 2017	94,998	\$272,189,423	44,043	\$56,740,229	19,449	\$129,927,269	8,433	\$24,207,079	166,923	\$483,064,000
Homeless Services-Programs April 2017	10,927	\$7,454,133	1,689	\$1,809,890	2,411	\$1,612,053	982	\$239,298	16,009	\$11,115,374

- \* Expenditures are FY17 totals.
- \* # served is point in time recipient counts

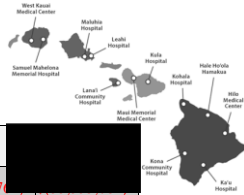
Source: State of Hawaii Department of Human Services

Health (Ambulance Services)

COUNTY / PROVIDER	FY 2016 BUDGET	FY 2017 BUDGET
City and County of Honolulu • Honolulu Emergency Services Department	\$35,469,408	\$37,056,261
County of Hawaii • Fire Department	\$15,842,705	\$16,536,274
County of Kauai • American Medical Response • Kauai Police Department	\$5,956,100	\$6,199,839
County of Maui • American Medical Response • Maui Police Department	\$15,637,059	\$16,288,579
TOTAL for Four (4) Counties	\$72,905,272	\$76,080,954

\*Includes General Funds, Special Funds and Trust Funds  
Source: State of Hawaii Department of Health

Hawaii Health Systems Corporation (Hospitals)



HHSC Hospitals	Oahu	Hawaii	Maui	
Operating Expenses	\$(39,448,714)	\$(321,965,185)	\$(307,804,714)	
Operating Revenues	\$ 29,586,379	\$ 273,188,711	\$ 257,083,384	\$ 47,841,450
General Fund Apprn.	\$ 12,154,000	\$ 45,652,000	\$ 36,796,000	\$ 11,338,000
Total	\$ 2,291,665	\$ (3,124,474)	\$ (13,925,378)	\$ 3,624,366

Source: Hawaii Health Systems Corporation

Education (Operating and CIP)

COUNTY	SY16-17 Enrollment	% Enrollment	FY17 General Fund Expenditures	% of Total Expenditures	CAPITAL IMPROVEMENT PROJECTS			
					FY16 (\$ 000s)	% of Total (FY16)	FY17 (\$ in 000s)	% of Total (FY17)
OAHU - 168 schools (119 elementary, 27 middle, 19 high, 3 other)	121,488	67.53%	\$890,686,820	58%	\$73,057	25.38%	\$147,364	43.79%**
HAWAII - 41 schools (22 elementary, 8 middle, 6 high, 5 other)	26,812	14.90%	\$184,854,474	12%	\$7,860	2.73%	\$17,646	5.24%
MAUI - 31 schools (18 elementary, 6 middle, 5 high, 2 other)	9,756	5.42%	\$155,073,739	10%	\$1,500	0.52%	\$1,590	0.47%
KAUAI - 16 schools (9 elementary, 3 middle, 3 high, 1 other)	21,846	12.14%	\$ 72,272,459	5%	\$23,177	8.05%	\$45,620	13.56%
STATEWIDE CENTRALIZED EXPENSES*			\$236,777,406	15%	\$182,314	63.32%	\$124,305	36.94%
TOTAL	179,902	100.00%	\$1,539,664,899	100%	\$287,908		\$336,525	

\*Those funds expended by a state level office for school level costs like Utilities or Food Services are reflected as "Centralized Expenses," because EDN financial systems record those charges by the office (ex. OSFSS-Auxiliary Services Branch) that made the payment and not the school(s) receiving the funds.

\*\*Several large cost items were put in the FY17 budget (new schools, etc.)

Source: State of Hawaii Department of Education

Possible project options

- ▶ Option A: Stop at Middle Street
- ▶ Option B: Stop Downtown at Aloha Tower
- ▶ Option C: Complete to Ala Moana

Option A: Stop at Middle Street

- ▶ No extension on GET surcharge needed (legislature would not need to convene a Special Session)
- ▶ Current date (2027) provides funding to build to Middle Street
  - Note that funding would include the release of the second obligation of \$743.7 under FFGA (which has not yet been released)
- ▶ FFGA funds might need to be paid back to FTA
  - City would need to figure out how to make up \$1.55B funding gap

WHAT IF WE WERE TO STOP NOW?	
TOTAL DOLLARS SPENT TO-DATE (JANUARY 2017)	\$2,649 million
REPAY FTA FOR FFGA FUNDS DRAWN TO-DATE	\$712 million
RETURN REMAINDER OF FTA GRANT	\$838 million
REMAINING CONTRACT OBLIGATIONS	\$150 million
EXISTING CONTRACTS TERMINATION EXPOSURE TO CLAIMS	\$1,806 million
REMOVAL & DISPOSAL OF EXISTING STRUCTURES	\$250 million
DEFAULT ON FULL FUNDING GRANT	Negative Standing with Federal Government for Decades
CITY EXPOSURE	Exposure to Lawsuits from Developers and Investors with Developments Near the Rail Alignment

Option B: Stop at Aloha Tower

- ▶ Total Estimated Project Cost = \$6.8B
  - Includes estimated financing = \$468M
- ▶ Need to cut the final 3 planned stations (Civic Center, Kakaako, Ala Moana)
- ▶ Estimated weekly ridership by 2030 = 91,000 (25% decrease in ridership)
- ▶ FFGA funds might need to be paid back to FTA
  - City would need to figure out how to make up \$1.55B funding gap
- ▶ Need supplemental EIS
- ▶ Need modification to Record of Decision (ROD)
- ▶ Passenger transfers to TheBus of TheHandi-Van were not evaluated in the EIS
- ▶ Specific site impacts to the Aloha Tower Station (construction of the stub Y track to reverse train direction; need of bus transfer facility)
- ▶ Public-Private Partnerships (w/ enabling legislation) could assist with project costs continuing on to:
  - Civic Center, Kakaako, Ala Moana

Source: Honolulu Authority for Rapid Transportation

Option C: Complete to Ala Moana

- ▶ Total Estimated Project Cost = \$9.6B
  - Includes estimated financing = \$1.4B (would be less if use additional sources of funding in combination w/ GET)
- ▶ Estimated daily ridership by 2030 = 121,000
- ▶ Receive the remaining FFGA obligation of \$743.7M
- ▶ Possible options for funding the remainder of the project:
  - Option #1: Extend Oahu GET Surcharge only
  - Option #2: Increase Oahu GET Surcharge
  - Option #3: Extend Oahu GET Surcharge + Oahu TAT increase
  - Option #4: Extend Oahu GET Surcharge + Statewide TAT increase
  - Option #5: Statewide GET surcharge + Statewide TAT Increase
- ▶ Impose conditions on funds

Possible Conditions

- ▶ Forensic Audit
  - A forensic audit could be conducted and forwarded to the City Council for its review and evaluation to include, but not limited to, project controls, management and cost containment; review and justification of change orders; amount of contingencies and its drawdowns; administrative cost to operate HART.
  - Provided that The Mayor of the City and County of Honolulu and HART submit to the City Council by the end of 2017 for its review and evaluation.
- ▶ Public-Private Partnerships at stations to assist with project costs (need enabling legislation)
- ▶ State Match County Funds
  - The State will provide (X) amount to be matched by the City.
  - If the City cannot provide the matching dollars upfront, the State is not obligated to fund the project.

Methods of Disbursement

- ▶ Drawdown method options:
  - Straight reimbursement of receipts; or
  - Grant-in-Aid; or
  - Special Loan Fund

By limiting the use of the funds for the rail project the legislature will be free from the fiduciary obligations which belongs to the city because it is a city project. The option is to limit the use of the funds to the cost of new construction related to the erection and installation of the rail only excluding debt service, administrative costs, operating costs, engineering and or contracted architectural and engineering services costs.

Drawdown Options

- ▶ Currently the State transfers the amount generated from the surcharge to the City quarterly with no oversight on how HART spends the funds.
- ▶ Under a drawdown process, the City would submit its invoices for payment to the State (i.e. BUF or AGS) for review and approval.
- ▶ The excess of the funds generated (through which ever option is agreed upon) would remain in the State's General Fund.

Grant-In-Aid

- ▶ City would have to provide their plans, financial information including a budget, responsibilities for State approval to be able to receive funding from the State. This including infrastructure relocation, cost of paying for real property and its location.
- ▶ If the conditions that are spelled out in the grant are not met the City will not receive funds.

Special Loan Fund

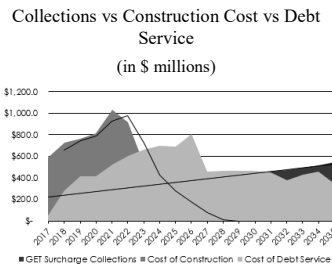
- ▶ Similar to Grant-in-Aid. Difference is if the conditions that are imposed by the State and not met the City will have to repay the State.
- ▶ The loan program will be evaluated and funds by stages or milestones will be dispersed by the State.

Option #1: Extend GET Surcharge

GET extension would be for an additional 7 years but ends up costing the project more because of the financing debt.

2034	
GET extension (over 2027)	\$2,987,200,328
Deficit	(\$2,588,823,281)
Excess	\$398,377,047
Financing Cost*	\$1,399,000,000

\*estimate based on HART data  
Source: State of Hawaii Department of Budget and Finance



Option #2: Increase GET Surcharge

2031	
99% GET Surcharge at 0.65%	
2018	\$ 37,342,886
2019	\$ 80,485,590
2020	\$ 84,107,441
2021	\$ 87,892,276
2022	\$ 91,847,428
2023	\$ 95,980,563
2024	\$ 100,299,688
2025	\$ 104,813,174
2026	\$ 109,529,767
2027	\$ 114,458,606
2028	\$ 518,306,722
2029	\$ 541,630,524
2030	\$ 566,003,898
2031	\$ 591,474,073

Current projections already include 0.5% surcharge until FY2027. An increase in the surcharge would bring in additional revenue equal to 0.15% until 2027.

An extension of the surcharge, beyond 2027, would include the full 0.65% in revenue.

2031	
GET surcharge increase	\$3,214,172,636
Deficit	(\$2,588,823,281)
Excess	\$535,349,355

Source: State of Hawaii Department of Budget and Finance

Option #3: Oahu GET + Oahu TAT

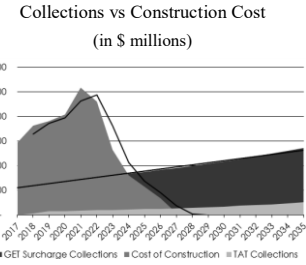
99% Oahu GET Surcharge + 1% Oahu TAT Increase

\*Any amount in excess of the \$2.59B deficit will remain in the general fund or designated elsewhere.

2032	
GET extension (over 2027)	\$2,048,498,010
1% Oahu TAT	\$729,261,720
Total	\$2,777,759,730
Deficit	(\$2,588,823,281)
Excess	\$188,936,449
Financing Cost Savings*	\$100 – 200M

\*estimate based on HART data

Source: State of Hawaii Department of Budget and Finance



Descriptions (Including Assumptions) *Executive Summary of Potential Funding for Rail provided by Budget and Finance	Worksheet 1 GET Oahu Only & TAT All Islands	Worksheet 2 GET & TAT All Islands
GET Growth Rate (Per Department of Taxation)	4.5%	4.5%
TAT Growth Rate (Variable rate for Worksheet 2 determined by Department of Taxation based on Council on Revenue projections)	8%	8%
Total Project Costs (Based on HART's May 26, 2017 Financial Projection: Breakeven Analysis Schedule)	\$8.165 billion	\$8.165 billion
Total Bond Financing Costs (Based on HART's financing schedule)	\$1.399 billion	\$1.399 billion
Adjustment for \$21 million per year of revenues for Rail operations through financing period	\$(294 million)	\$(231 million)
Total Project & Financing Costs & Adjustment	\$9.270 billion	\$9.333 billion
Total GET Tax Collections 1/1/2007 – 6/30/2017 (June 2017 estimated based on average of previous 11 months)	\$1.981 billion	\$1.981 billion
Total Projected GET Extension Revenues 7/1/2017 – 6/30/2027	\$3.143 billion	\$4.440 billion
Total Federal Grant	\$1.55 billion	\$1.55 billion
Total Other Sources (Based on HART's May 26, 2017 Financial Projection: Breakeven Analysis Schedule)	\$7 million	\$7million
Total Tax Revenues, Federal Grant & Other Sources	\$ 6.68 billion	\$7.98 billion
TARGETED FUNDING SHORTFALL	\$2.59 billion	\$1.35 billion

Option #4: Oahu GET + Statewide TAT

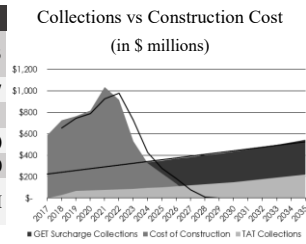
99% Oahu GET Surcharge + 1% Statewide TAT Increase

\*Any amount in excess of the \$2.59B deficit will remain in the general fund or designated elsewhere.

2031	
99% GET Extension (over 2027)	\$1,705,704,013
1% Statewide TAT	\$1,407,578,097
Total	\$3,113,282,111
Deficit	(\$2,588,823,281)
Excess	\$524,458,830
Financing Cost Savings*	\$100 – 200M

\*estimate based on HART data

Source: State of Hawaii Department of Budget and Finance

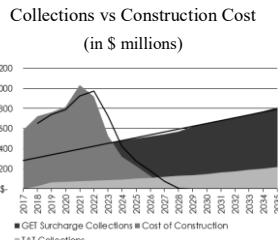


Option #5: Statewide GET Surcharge + Statewide TAT

99% Statewide GET Surcharge + 1% Statewide TAT Increase

\*Any amount in excess of the \$2.59B deficit will remain in the general fund or designated elsewhere.

2028	
99% Statewide GET Extension (2028)	\$ 569,567,826
1% Statewide TAT (2018-2028)	\$ 958,301,113
<b>Total</b>	<b>\$ 1,527,868,939</b>
Deficit	\$(1,354,232,749)
Excess	\$ 173,636,190
Financing Cost Savings*	\$100 – 200M



\*estimate based on HART data

Source: State of Hawaii Department of Budget and Finance

0.5% Surcharge

YEAR	OAHU (\$ millions) 99% GET Surcharge	MAUI (\$ millions)	HAWAII ISLAND (\$ millions)	KAUAI (\$ millions)
2016	\$233,323,231 (actual)	--	--	--
2017	\$225,125,679 (actual)	--	--	--
2018	\$245.0	--	--	--
2019	\$268.2	\$ 60.7	\$ 52.8	\$ 25.8
2020	\$280.4	\$ 68.4	\$ 59.5	\$ 29.1
2021	\$293.0	\$ 70.8	\$ 61.6	\$ 30.1
2022	\$306.2	\$ 73.3	\$ 63.7	\$ 31.1
2023	\$319.9	\$ 76.0	\$ 66.1	\$ 32.3
2024	\$334.3	\$ 78.8	\$ 68.5	\$ 33.5
2025	\$349.3	\$ 81.7	\$ 71.0	\$ 34.7
2026	\$365.0	\$ 84.7	\$ 73.6	\$ 36.0
2027	\$381.5	\$ 87.8	\$ 76.4	\$ 37.3
2028	\$398.6	\$ 91.0	\$ 79.2	\$ 38.7
2029	\$416.6	\$ 94.4	\$ 82.1	\$ 40.1
2030	\$435.3	\$ 97.9	\$ 85.1	\$ 41.6
2031	\$455.0	\$ 101.5	\$ 88.2	\$ 43.1
<b>TOTAL</b>	<b>\$1,706.0</b>	<b>\$ 1,067.0</b>	<b>\$ 927.8</b>	<b>\$ 453.4</b>

\* Extremely rough *estimate* provided by DoTAX. "Currently don't have enough data available to accurately predict collections by individual county."

Source: State of Hawaii Department of Taxation

GET Surcharge Administration Fee

Total Collection of GET state admin charge at 10% from 2007-2017 = \$219,391,729.52

	99% Admin Fee	90% Admin Fee	Difference to the GF
2018	\$ 245,062,691	\$ 233,393,039	\$ (11,669,652)
2019	\$ 268,285,299	\$ 243,895,726	\$ (24,389,573)
2020	\$ 280,358,137	\$ 254,871,034	\$ (25,487,103)
2021	\$ 292,974,253	\$ 266,340,230	\$ (26,634,023)
2022	\$ 306,158,094	\$ 278,325,540	\$ (27,832,554)
2023	\$ 319,935,209	\$ 290,850,190	\$ (29,085,019)
2024	\$ 334,332,293	\$ 303,938,448	\$ (30,393,845)
2025	\$ 349,377,246	\$ 317,615,678	\$ (31,761,568)
2026	\$ 365,099,222	\$ 331,908,384	\$ (33,190,838)
2027	\$ 381,528,687	\$ 346,844,261	\$ (34,684,426)
<b>Total:</b>			<b>\$ (275,128,601)</b>

Source: State of Hawaii Department of Budget and Finance

State Debt vs General Fund Tax Revenues

- ▶ Pension Unfunded Liability - \$8.8B in 2015 (State's portion \$7B)
  - \$5.1B in 2006
  - 72% growth in 10 years
- ▶ Health Benefits Unfunded Liability - \$11.8B in 2015 (State's portion \$9B)
  - \$6.3B in 2006
  - 87% growth in 10 years

- ▶ Tax-Exempt General Obligation Bonds Outstanding - \$6.6B
  - \$4.3B in 2006
  - 53% growth in 10 years
- ▶ General Fund Tax Revenues - \$5.7B in 2015
  - \$4.4B in 2006
  - 30% growth in 10 years

\*Data provided by Budget & Finance "State General Fund Financial Plan and Impacts to the State Budget".

State Debt vs General Fund Tax Revenues

- ▶ The State has identified more than \$3B in deferred maintenance that is needed to maintain and repair State facilities/buildings.
- ▶ Summary: Increase in general fund tax revenue growth has not kept up with the increase in State debt

\*Data provided by Budget & Finance "State General Fund Financial Plan and Impacts to the State Budget".

The compromise

Descriptions (Including Assumptions)	GET Oahu Only & TAT All Islands
GET Growth Rate (Per Department of Taxation is 4.5%; worksheet adjusted for growth rate of 3% per FTA)	3%
TAT Growth Rate (Average of past 29 years' growth rate)	8%
Total Project Costs (Based on HART's May 26, 2017 Financial Projection: Breakeven Analysis Schedule)	\$8.165 billion
Total Bond Financing Costs (Based on HART's financing schedule)	\$1.399 billion
Adjustment for \$21 million per year of revenues for Rail operations through financing period	\$(281 million)
Adjustment for estimated cost of marketing (\$51 million from 2012 – 2017; \$10 million thereafter for 10 years)	\$(151 million)
Adjustment for estimated financing cost savings from receiving TAT collections	\$(208.6 million)
Total Project & Financing Costs & Adjustment	\$8.923 billion
Total GET Tax Collections 1/1/2007 – 6/30/2017	\$1.978 billion
Total Projected GET Revenues 7/1/2017 – 12/31/2027	\$3.010 billion
Total Federal Grant	\$1.55 billion
Total Other Sources (Based on HART's May 26, 2017 Financial Projection: Breakeven Analysis Schedule)	\$7 million
Total Tax Revenues, Federal Grant & Other Sources	\$6.545 billion
<b>TARGETED FUNDING SHORTFALL</b>	<b>\$2.378 billion</b>

Source: State of Hawaii Department of Budget and Finance

The compromise

- ▶ Extend the general excise tax surcharge on Oahu for three additional years
  - ▶ December 31, 2027 through December 31, 2030
  - ▶ This will provide \$1.046 billion
- ▶ Raise the hotel room tax charged to visitors (Transient Accommodation Tax) by one percent from 9.25 percent to 10.25 percent for 13 years
  - ▶ January 1, 2018 to December 31, 2030
  - ▶ This will provide \$1.326 billion
- ▶ Establish a Mass Transit Special Fund for the deposit of the GET surcharge and TAT revenues
- ▶ Permanently increase the counties' share of the TAT from its current \$93 million base to \$103 million
- ▶ Reduce the State Department of Taxation's administrative fee on the GET surcharge from 10 percent to one percent
- ▶ Require a state run audit (forensic) of the rail project and annual financial reviews
- ▶ Requires the comptroller to certify HART's expenditures for capital costs
- ▶ Requires the director of finance to disperse moneys on a monthly basis and post the comptrollers certificate statements online
- ▶ Funds cannot be spent for operations, maintenance, administration costs, or marketing

The compromise

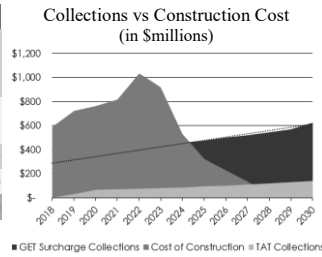
99% Statewide GET Surcharge + 1% Statewide TAT Increase

*\*Any amount in excess of the \$2.59B deficit will remain in the general fund or designated elsewhere.*

2030	
99% Oahu GET Extension 2028 to 2030	\$1,046,400,521
1% TAT Statewide 2018 to 2030	\$1,326,867,668
<b>Total</b>	<b>\$2,373,268,189</b>
Deficit	\$2,378,000,000
<b>Financing Cost</b>	<b>*\$1,191,000,000</b>

\*estimate based on HART data

Source: State of Hawaii Department of Budget and Finance



References

- ▶ Alternatives Analysis Report (2006)
- ▶ Final Financial Plan for Entry into Final Design (2011)
- ▶ Full Funding Grant Agreement (2012)
- ▶ HART Recovery Plan (2017)
- ▶ Update Financial Capacity Assessment by Porter & Associates, Inc.
- ▶ Project Management Oversight Contractor (PMOC) Report (2016)
- ▶ How Hawaii's State Government Shares Transient Accommodation Tax Revenues with Its Local Governments," UHERO; James Mak (2016)
- ▶ Budget & Finance "State General Fund Financial Plan and Impacts to the State Budget"

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

"Permission to enter written comments, and may I continue with a few more comments? Mr. Speaker, I stand in support. I really want to, since we have the Mayor and the councilmembers in the gallery and members of HART and the HART board, I want to put it to them that in order to build public trust about the project, I hope that they can start showing the citizens of Honolulu and the rest of the State on how this multimodal system will be working. On how they can get the rail system moving along, up and running, for the first segment between Kapolei and Aloha Stadium, so that we can see the opportunities that will come from the system being operated. And how we can see TOD with affordable housing, all the things that we were speaking of and how we can see that being taken in action. I want to put it to them that we are going to work with them to get that done so that we can start showing our communities what's in store and what can be done. Thank you."

Representative Cullen's written remarks are as follows:

"Mr. Speaker, we are here today voting on a measure that will provide more funds for the Honolulu rail project with an audit, oversight, accountability and responsibility over taxpayer funds. With many concerns surrounding this project, it is still imperative that the rail project be finished for our residents that live west of the H-1 and H-2 merge. As development continues to happen in the central and leeward areas of Oahu, the City and County of Honolulu needs to start explaining and creating the multimodal mass transit system they are building for the residents in the City and County of Honolulu.

"I would like to share that the State has been working with engineers on projects regarding the capacity of the current freeway system and improving capacity on its current systems. Some of the proposed projects include adding a shoulder lane for Kualaka'i Parkway to the Kunia exit going in the eastbound direction. Other proposed projects that have gone into effect include extending shoulder lane hours and adding an additional lane to the zipper lane. I can personally attest to the positive impact of the traffic projects, which have shortened drive times. In morning traffic, the 18.2-mile drive from my residence takes one hour in the zipper lane.

"As explained above, as leaders, we shall continue to find solutions and provide more opportunities to the public. Therefore, to the Mayor and the councilmembers of the City and County of Honolulu, HART and the HART board, get this project under control and done. As you make more decisions, make one of those decisions to open up the first 10 miles, which is Kapolei to the Aloha Stadium, so the public may see the transportation options and the opportunities it will bring to our communities. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. In strong support. I'd like to request written comments for the Journal, and I'd also like to request that my second reading comments be also inserted. Thank you."

Representative Aquino's written remarks are as follows:

"In strong support, Mr. Speaker, of SB 4. First, I would like to take some time to thank all the various offices for their help and support during the special session. A special *mahalo* to the Speaker's staff, Finance staff, HMSO, LRB, Chief Clerk's office and staff including Print Shop staff, our Sergeant-at-Arms staff and my office manager for doing so much and ensuring we had what we needed at all kinds of times. *Mahalo* to the Senate President and Ways and Means Chair for all of your work and commitment to get this bill through. Thank you to Director Machida at Budget and Finance who worked extremely hard for the House and Senate negotiating teams for the last couple of months. Thank you to HART and the city for being willing partners to find a solution that can move this project forward and towards completion. *Mahalo* to the public who provided written and oral testimony during this process that helped us shape what we have today in SB 4.

"While this measure is not a perfect measure, it is a product of balanced leadership, accountability and necessary oversight.

"I would like to thank you, Mr. Speaker, for allowing Finance Chair and I 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 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's shortfall exploded shortly after our 2015 legislative session and continues to face challenges. What we have in front of us today is a comprehensive measure that:

- Provides adequate funding to support the rail project to Ala Moana;
- Provides necessary fiscal oversight;
- Provides balance between the needs of the city and yet remain 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 alleviates some of the tax burdens on local residents.

"I truly understand the angst and concerns of our neighbor island residents. However, the increased TAT rate would apply to visitors of our islands and not on our residents. We did this as an attempt to lighten the burdens on our local residents and look to reduce the overall financing costs of the project. This was a conscious decision to support our people while being mindful of our obligations—at this time and in the future.

"For these reasons, I stand in support and ask my colleagues to support this measure as well."

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

"Thank you very much, Mr. Speaker. In support. Mr. Speaker, this project, for me, once we started, in 2005 I voted for this, and I think in hindsight we

probably would have done it a little differently. But I think one of the things that stands out to me very clearly is that this project is ending up to be upside-down. Meaning H-1, H-2, H-3, our largest infrastructure projects back then, were paid 90% by the feds and 10% by us. And this project may end up the other way around.

"So no matter what taxing mechanism we pick, it will hurt because our tax base is too small, 1.4 million people. The example I tell people is we have one governor, one lieutenant governor, one legislature to cover that cost by 1.4 million. California, one governor, one lieutenant governor, one legislature, granted maybe they get paid a little more, there's more of them, 40-something million people to cover that cost. A lot of times, scale is the issue.

"This project, unfortunately, should have been negotiated differently in the beginning, but that is neither here or there. We are well on our way and I think we need to complete it. It is an infrastructure project that is much needed in our state. I just always had questioned, well more so in the later years, had questioned as to how it was funded.

"Now, the good news is, going forward, we all know that it needs to get to Manoa and to other areas at some point in time. The lessons that we've learned, and I think we need to remember that we are a small tax base state and that we need to rely on our Federal Government for help, and we should do so in the future. Thank you very much."

The motion was put to vote by the Chair and carried, and S.B. No. 4, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT," passed Third Reading by a vote of 31 ayes to 15 noes, with Representatives Kobayashi, Onishi, Oshiro, San Buenaventura and Woodson voting aye with reservations, with Representatives Brower, Cachola, Creagan, DeCoite, Evans, Kong, Lowen, McKelvey, Quinlan, Say, Thielen, Todd, Tokioka, Tupola and Ward voting no, and with Representatives Choy, Har, Hashem, Matsumoto and Nishimoto being excused.

At 1:52 o'clock p.m., the Chair noted that the following bill passed Third Reading:

S.B. No. 4

At 1:52 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 1:56 o'clock p.m.

#### INTRODUCTION OF RESOLUTIONS

The following resolutions (H.R. Nos. 8 through 10) were announced by the Clerk and the following action taken:

H.R. No. 8, entitled: "HOUSE RESOLUTION AUTHORIZING THE SPEAKER OF THE HOUSE OF REPRESENTATIVES TO APPROVE THE JOURNAL OF THIS HOUSE OF ANY LEGISLATIVE DAY BEING COMPILED AS OF THE 5TH LEGISLATIVE DAY," was jointly offered by Representatives Evans and Tupola.

On motion by Representative Evans, seconded by Representative Tupola and carried, H.R. No. 8 was adopted, with Representatives Aquino, Choy, Har, Hashem, Matsumoto and Nishimoto being excused.

H.R. No. 9, entitled: "HOUSE RESOLUTION AUTHORIZING AND DIRECTING THE COMMITTEE ON THE JOURNAL TO COMPILE AND PRINT THE JOURNAL OF THE HOUSE OF REPRESENTATIVES, SPECIAL SESSION OF 2017, PURSUANT TO RULE 18 OF THE RULES OF THE HOUSE OF REPRESENTATIVES," was jointly offered by Representatives Evans and Tupola.

On motion by Representative Evans, seconded by Representative Tupola and carried, H.R. No. 9 was adopted, with Representatives Choy, Har, Hashem, Matsumoto and Nishimoto being excused.

H.R. No. 10, entitled: "HOUSE RESOLUTION INFORMING THE SENATE AND THE GOVERNOR THAT THE HOUSE OF REPRESENTATIVES IS READY TO ADJOURN SINE DIE," was jointly offered by Representatives Saiki and Belatti.

On motion by Representative Evans, seconded by Representative Tupola and carried, H.R. No. 10 was adopted, with Representatives Choy, Har, Hashem, Matsumoto and Nishimoto being excused.

#### LATE INTRODUCTIONS

The following late introductions were made to the Members of the House:

Representative Say introduced family of Representative Marcus Oshiro: mother, Ruth Oshiro, sisters, Susan Okamura and Roberta Ishikawa, and wife, Lauzanne Oshiro.

Representative Luke introduced Congresswoman Colleen Hanabusa and former Representative Marilyn Lee.

Representative McDermott introduced former Mayor Mufi Hannemann.

Representative Ohno introduced Mr. Bixby Ho, former Chair, Oahu County Democratic Party of Hawaii.

#### ANNOUNCEMENTS

At this time, the Chair stated:

"We'd like to take a couple of minutes to congratulate our esteemed colleague, Representative Marcus Oshiro, upon his confirmation as chairperson of the Hawaii Labor Relations Board. Representatives Belatti, Morikawa and Evans, could you please present Representative Oshiro with a certificate, a gavel and a lei on behalf of the House."

At this time, Representative Oshiro was presented with a certificate, gavel and lei by Representatives Della Au Belatti, Dee Morikawa and Cindy Evans on behalf of the House of Representatives.

Speaker Saiki: "Thank you. Representative Oshiro, would you like to say a few words?"

Representative Oshiro: "Mr. Speaker, I want to thank you and I want to thank my colleagues for sending me off in such a classy and memorable manner. You guys really didn't have to extend the session so long today, but I know you wanted me to have fond memories of the spirited and engaging debate in this marketplace of ideas that I have grown fondly in love with over the last 23 years.

"I remember first coming here in 1994, being duly elected along with a few of you, and I'll name you in a few minutes. I can hardly imagine that 23 years have passed, that they have come and gone, and we've entered into all the debate and the discussions of the issues of the day and wrestled with those unfathomable, repetitive perennial issues that come forward, in season and out.

"I was looking at a photograph that was taken back in 1994. In that photograph are some distinguished fellows, men and women who over the years I've had a chance to serve with. Some of them are still in public service, some of them are in private practice, some of them are with our maker.

"In 1994, we came in, Mr. Speaker, as the new turks, in a very auspicious election season that saw great change in Hawaii politics. We were a lot younger then, maybe more bold, certainly more cocky. But we worked alongside our colleagues. Representative Mike Kahikina, Representative Billy Swain, Representative Eric Hamakawa, Representative Quentin Kawananakoa, Representative Chris Halford, Representative Brian Yamane, Representative Nestor Garcia, Representative Merwyn Jones, Representative Terry Yoshinaga, Representative Mary-Jane McMurdo, Representative Eve Anderson, Representative Ed Case, and of course yourself, Mr. Speaker, then Representative Scott Saiki. Twenty-three years

have come and gone in a flash. But I would never have traded anything in the world for the experiences that I have lived through that have made me a better person today.

"Let me ask permission, Mr. Speaker, to submit written comments. Thank you, Mr. Speaker. And I will make sure they are relevant and germane to the occasion. Give me a couple more minutes, please.

"But let me thank each and every one of you. And let me express to you my delight and my happiness in my new appointment. It is something that I never sought nor coveted, but was brought to my attention by the Governor when he perhaps saw that there was a place for me to continue public service in a different arena, and to bring all of the talents and skills and insights that I have acquired being amongst you here. I guess the message is for all of you, as you toil through the various issues of the day, make the sacrifices economically, financially, of time with your loved ones, your families, that I believe your due diligence, your sacrifice, will one day be rewarded.

"Mr. Speaker, let me apologize to you. When I look at my classmates here, I am so proud that of the 18 of us, if I include the Representative from Kaneohe who may be seeking greener pastures, I don't know why, in the chamber across the way, but nonetheless greener pastures in the chamber across the way, who might be leaving. That means that you will be, Mr. Speaker, the last of the class of 1994. I want to bless you, and I want you to succeed, Scott. Despite the differences we may have wrestled with through the years, times that the issue had put us at odds with each other, that some of the factionalism that occurs in a robust Democratic Party that we have, which has the big tent, inclusive and including all of us, I look back to where we started, in 1994. I see all of us in you, the last remaining member of our class, to carry forward the dreams and highest aspirations for what we can and could do as House members. You're the last of us. I want you to succeed, I hope you will succeed, because your success is our success.

"I heard a lot about the concern of this thing called social media through these devices here, this thing called the Internet. When we started, there was no such thing yet. I think Al Gore hadn't invented it yet. We had telephones, pay phones and pagers.

"Let me share this with you guys, then I'll sit down. This is a part of a speech that was delivered by President Roosevelt, and let me just bring it to your attention, some of you have heard it before, but it's something that you should tack onto your wall or something, in your cupboard, or in your quiet space in your office. I read, 'It is not the critic who counts, not the man who points out how the strong man stumbles, or where the doer of deeds could have done them better. The credit belongs to the man who is actually in the arena, whose face is marred by dust and sweat and blood; who strives valiantly; who errs, who comes short again and again, because there is no effort without error and shortcoming; but who does actually strive to do the deeds; who knows great enthusiasms, the great devotions; who spends himself in a worthy cause; who at the best knows in the end the triumph of high achievement, and who at the worst, if he fails, at least fails while daring greatly, so that his place shall never be with those cold and timid souls who neither know victory nor defeat.'

"I never thought I would enter politics growing up. I was counter-culture, I was rebel, I was a Wahiawa boy who enjoyed surfing, playing football, hanging out with friends, experimenting. But one thing I did learn from my father growing up, and he would say this every several years before getting involved in another campaign, and he believed it. That politics was a noble profession. That there was no such profession in the entire world where a man or woman could come forward seeking to do great and wonderful and good deeds for his people, but in a moment of doubt, of fear, of weakness, fail to accomplish his goals and harm the very people he sought to relieve. I think that's true.

"I'm going to miss you guys. Each of you have touched me in a way and a manner, individuals and collectives, you're all very unique people. And whether you're a progressive Democrat, Democrat, liberal Democrat, conservative Democrat, blue dog Democrat, whether you're a Republican, conservative Republican, liberal Republican, progressive Republican, you all here are part of my family and part of my own heritage, part of my own legacy.

"I'm not dying yet, but leaving to fulfill my oath of office. Call me anytime, counsel me, advise me, even scold me if you think I am in error. I welcome it.

"And last but not least, given the acrimony that we have gone through these last five days, let me share with you something that some of you may know him, Jim Dote. But this is a letter that Governor Burns wrote to him in commenting upon the abrasive nature of the media, and maybe today even more acutely so with social media. Especially you freshmen. 'Don't worry about the proliferation of articles and commentaries in the news media which have a tendency to criticize, find fault, see mistakes, prod officialdom, and sometimes get things wrong. This is part of the very valuable abrasive action which polishes the jewel of our social order. If you were to read every article about Hawaii and take it very seriously, you would soon lose your peace of mind because of the many contradictions you would find. Instead, overcome any evil or failures of our society by doing good. This is an ages-old principle. Unless reputation is seriously at stake, accept with good humor any fault-finding by others. Accept with good grace the criticisms and suggestions offered. But continue to plod ahead with your plans to achieve what you consider worthwhile.'

"Mahalo, friends. Aloha."

Representative Oshiro submitted the following:

"Mr. Speaker, thank you for this opportunity to insert additional written remarks to what may be my final speech to you and my House colleagues.

"First, let me ask that the House Journal include a photograph of my classmates from 1994 or the Class of '94. Mr. Speaker, as you may recall, it was taken in one of the conference rooms during one of our initial orientation sessions. This means it was taken in the first year of our first term or our 'freshman' year. We were younger then, full of bravado, ideals, and ready to take on the world. Even change the world.

"Mr. Speaker, my earlier recitation of my classmates, however, may have inadvertently overlooked several classmates, as the strong emotions welling up in my eyes temporarily blurred my vision. Indeed, I was actually disoriented for a moment getting caught up in the emotions sweeping into me as I shared my feelings honestly and unashamedly. I did omit some classmates. I admit my error and failure. But, nothing was intended or should be construed by that error and herein I have asked our most exacting and careful Journal Clerk, Ms. Emma Perry, to insert our class photo and corresponding name chart.

#### CLASS OF 1994 (1995, STATE OFFICE TOWER)



Back Row: Michael Kahikina, Billy Swain, Eric Hamakawa, Quentin Kawanakoa, Ed Case, David Tarnas, Chris Halford

Middle Row: Mark Takai, Marcus Oshiro, Ken Ito, Merwyn Jones, Brian Yamane, Nestor Garcia, Scott Saiki

Front Row: Terry Yoshinaga, Mary-Jane McMurdo, Colleen Meyer, Eve Anderson

"I have also asked her to insert a similar photograph of our classmates taken in 2004 or ten (10) years later as our class had diminished to just seven.

CLASS OF 1994 (2004, SENATE CHAMBER)



Mark Takai, Michael Kahikina, Marcus Oshiro, Eric Hamakawa, Ken Ito, Colleen Meyer, Chris Halford, Scott Saiki

"Mr. Speaker, never did I imagine or contemplate that one day I would be saying 'aloha' and farewell to my House colleagues and this honorable chamber and institution. The abruptness of this special session and my Senate confirmation, GM and the five (5) day schedule has barely given me enough time to adequately reflect and contemplate the appropriate words, or even final words, to my colleagues and friends and, may I say, extended family of this Hawaii State House of Representatives. All of you have contributed to who I am today and any success from herein forward will be because of your influence upon me in both big and small ways. Accordingly, the following expressions of appreciation and farewell are necessary and needed.

"House Sergeant-at-Arms – From my first day until my last day, the House Sergeant-at-Arms staff has serviced me well and taken care of me from 1994 through 2017. Always providing courteous and prompt service regardless of my varied offices, title, or status. From Sergeants Kevin Ebata through Frank Arakaki, then Kevin Kuroda and Lon Paresa, to Rod Tanonaka and Tamah-Lani Noh, I have been serviced by the best. The 'A-team' staff comprised of Jesse, Bronson, Kamana, Geoffrey, Henry, Nina, Grant, Andrew, Glenn O. and Glen G., and Jonathan, you folks provided security, comfort, and muscle when it was needed. But, it was 'Aunty' Paulette that always reminded me of my favorite school teacher and aunty rolled into one. She was fun, yet set firm boundaries. Usually the first into the office, she was usually there to open my locked door, and always ready and willing to go beyond the job description. I will miss but never forget her kindness and helpful nature.

"Mr. Rudy, I will forever admire your western tone, plaid shirts, ostrich boots, and sincere and kind words. You reminded me of some folk hero of the old West. Like a modern day Samuel Langhorne Clemens or poet or writer. You always lifted me up. *Mahalo nui*.

"Finally, at the end of each day or early evening I would stop by and see Jeff Spencer or he would find me in the halls or on my way to the garage. He would turn to face me and say, '*Kon ban wa*' and I would face him and repeat, '*kon ban wa*.' Then, I would say, '*O genki desu ka?*' and he would respond, '*Hai, genki desu*.' He would smile at me and I back to him. It was a ritual we did for many years. Simple, brief, but nonetheless one of the most priceless and memorable experiences of all my years. Sort of like the 'tap dancing' I would do with some of the Print Shop ladies to amuse and generate a laugh and smile and lift their spirits. Jeff did that for me by his simple, 'Good evening' and 'How are you doing?' and 'I am doing well,' and 'how about you?' I will never forget this and him.

"LRB Research – You folks should get more pies and goodies for all you folks do. With a smile and helpful cheerful greeting, entering the office was

like an upscale Tokyo Japanese department store—ala Mitsukoshi—'*Irrashimase*' (welcome in). Lisa, Susan, Joyce, Merlita and Joanna, you gals are the best. And I would not have been a credible threat if not for the superior quality drafting and strict client confidentiality that LRB is known for both far and wide. Under the fine and firm leadership of Director Charlotte Carter-Yamauchi and First Assistant Shawn Nakama, master draftsmen Dean, Lance and Johnny, none of my repeated requests for various floor amendments, bills, and special session drafts were ever denied, and your accommodations of my requests were always graciously given and found deserving of the highest quality of drafting skills, even if the real world use may be improbable or unforeseeable. It was that respect for me, through the various roles and responsibilities, both big and small, over the years, and your unwavering adherence to duty and mission that I will never forget. You always made Hawaii proud at the national meetings Charlotte and Shawn, the scar on my forehead reminds me of how great and small our island home is. *Mahalo*.

"House Clerk's Office – I leave the House with many fond memories of the Clerk's office. My 'mother' Patricia Mau-Shimizu always had me and my 'Japanese Brothers' (Nekoba, Hamakawa, Takai and Saiki) under her wing. She doted over us, scolded us, encouraged us, and looked for the best in us. She was sad when we split into various factions and always held out hope for a reconciliation and restoration of our early brotherly bonds of friendship. But, we all grew into our own and from the young 'turks' we grew apart but she kept tabs on us all. Silently, patiently, and most expectantly of our eventual control and leadership of the House and its committees. I hope I did you proud when I could make you proud. For now, it will be left to our Speaker to carry on where we left off, as my brother from Kaneohe has expressed an interest to seek the Senate seat of the same area.

"Thank you Mr. Brian Takeshita or 'BT' as he is known and loved by many. You and I go way back to the early years in the House, and throughout your years we have worked together in many ways and in many roles. Throughout it all, you have been a resource for correct procedure, bill and committee drafting, and a source of humor and good ribbing during the most stressful hours and seasons. Your dead-pan humor and wry and clever play on words always brought a smile to my day and lifted our hearts and spirits. Thank you, 'B.T.'

"House Journal Staff – Ms. Emma Perry has got to be the most patient and kind person there is. Not only must she listen and transcribe hundreds of speeches and remarks every session, she must do so in a short time span and ensure the accuracy of the text against the recorded floor session. Not so easy as it may appear, and when you have such a prolific Representative as I, the work is doubled or quadrupled. But, what I found so heartwarming and encouraging was the notion that she actually read the 'written remarks' and where appropriate sought clarification for a misplaced verb, modifier, or even word. Such proofing only comes with painstaking careful and complete reading of the written remarks.

"Moreover, Ms. Perry understands and appreciates the importance of an accurate and complete legislative record of proceedings. She knows how the Journal comments and/or remarks provide context and clues to the legislative intention and purpose. She knows that words matter and where there is a choice this word or that word is not by chance but by choice. For a seasoned legislator like myself whose public record is established to stand the test of time and bear permanent record of my work and my work's intention, I am thankful and considered blessed to have Ms. Emma Perry as the House Journal Clerk as the authority and publisher of the words and remarks that I have chosen to buttress and substantiate my vote, or tear apart or destroy my opponents theory or argument in a most civil and respectful manner of both friend and foe.

"Extraordinary comes close to describing the work of Ms. Perry. I leave knowing that my efforts and work of twenty three (23) years will be forever immortalized and set forth in the Hawaii State House of Representatives House Journal for my posterity, family, friends, historians and researchers. Thank you Ms. Perry for allowing me to set forth my intentions and legislative records in which future legislators and succeeding generations will judge me and my kind, though it provide both alarm or inspiration or prompt further inquest or investigations for the truth and meaning of things. Your kindness and patience will never be forgotten. Highest professional



ethics and confidentiality guards your reputation and honor. Simply, the best.

**"House Print Shop** – Thank you to both Summer and Tammy for the unsung heroes you both are; literally day and night. Deep in the bowels of the State Capitol, with the whirl and hum of the machines, you folks make sure the House of Representatives runs on time and ensure that the public's right to know is actualized and sustained even in this day of internet media and electronic documentation. Thank you Summer for making the special mini quarter sheet flyers and for somehow getting our rush orders out to meet our deadlines and targeted audience.

"May you always be able to print the hard copies of bills, committee reports, and other useful documents. Even call me old-fashioned but I still believe it is best to draft final versions of any bill in a hard copy document and review each draft with pencil/pen and ruler from end to end.

"Finally, from the time we worked together on the labor bills when Rep. Yoshinaga was chairperson until this most recent homeless project and I needed posters and more flyers, I thank you Tammy for your gentle and kind assistance and for always doing such good work with a self-effacing style and professional manner and attitude.

**"House Technical Support Services** – They are the most patient people on this planet and full of grace and longsuffering. I mean how many times during a session does a legislator 'forget' his own passcode? Likewise, how can one legislator change his log-in name multiple times during a single year or not remember a simple 8 digit/numerical code? Well, I was that legislator, and the eminent technologist squirmed away in the deep underground Capitol bunkers were too kind and forgiving of my ineptitude and technical skills of a renaissance man from the dark ages or when cave dwellers made moving pictures with shadow puppets and illuminated by the glow of a burning bush and tree bark. *Mahalo nui* to Kai, Eric, Kevin, Thai, Nhuc, and Mr. Fukumoto (Royce). Royce, you took me from the stone age of personal computer to the space age of the Apple product line, including iPhone and MacBook Air. I still don't know how to use all the gizmos but it does look cool at Starbucks and the millennials think I am cool and tech savvy. Of course, I am not. Special acknowledgement to Josette, Ms. Gail and Craig for their non-judgmental computer fixes that any high school freshman could figure out in five minutes. You always helped with a smile and never made fun of me. Well, at least not in ear shot or in front of me. I'll think of you all fondly whenever I forget my new passcode and account name.

**"House Accounting** – Neal, Roger and Ashley, thank you. You folks always made sure my staff was properly registered and got their well-deserved pay check. Moreover, you kept an eye open for opportunities to help my staff help themselves and maximize the compensation opportunities of both permanent and seasonal employment. Ashley, thank you for helping my staff like Jared and Bill. You quietly assisted them and made sure their paperwork was complete and filed. Neal, may the ocean continue to inspire you to enjoy our beauty and power and may we all 'live to surf, and surf to live.' We are never too old to enjoy the ocean and the waves freely given to all. And, Roger, thank you for inspiring a generation of legislators who saw the unlimited possibilities of the Capitol Pond as a living showcase for Hawaii's varied and beautiful nearshore and reef fish. I am one of those who thought it was perfectly fine to populate the pond with local fish and fauna. Please keep it up and I hope to see those beautiful and inspiring fish adding some life and levity to our otherwise plain and underused State Capitol. Happy trails and fly fishing in Alaska and at the beautiful Lake Wilson in Wahiawa.

**"House Majority Staff Office** – A special recognition to John Kawamoto for this tireless professionalism and mild-mannered style. When he left several years ago, I did not have the opportunity to thank him for all the years of service to me and the Democrat Caucus when I was twice the caucus leader. John was another of the un-seen and un-heard heroes in the House of Representatives. He always had the legislative calendar ready for review and approval weeks in advance and he was always available to discuss various scenarios.

"When I was the chairman of the House Labor and Public Employment Committee, Mr. Jamie Go was the HMSO staffer assigned to the committee. It was such a pleasure and delight to work with him. We moved a lot of bills

during those years, 2002-2004, and we produced many House and Senate drafts. Mr. Go never complained or expressed any exasperation, but only support and an unyielding desire to work hard and ensure that committee works was nothing less than exceptional and of high quality. He is credited with giving me the support I needed to advance bills supporting our public labor stakeholders and balancing interest of the several state and county employer groups. He is an essential and important senior member of the HMSO 'ohana and staff.

"Mr. Dvonch – You were one of my favorite legal beagles around the Capitol. From the time I met and worked with you when you were with Chairman Terry Tom, House Judiciary, you were always understated and kept a quiet and possessed a thoughtful demeanor. In many ways, you carried the same understated presence of my father, and your soft tones and easygoing manner spoke volumes of your knowledge of the law and experience in the practice of the law. We did a lot of good work together and I owe much of education of the House rules and Masons to you and Mr. Funaki.

"Mr. James Funaki – Thank you Mr. Funaki for welcoming me into the House of Representatives back in 1994. I recall meeting you in the Leopapa A Kamehameha Building and how you mentioned to me your work with my father in the 1960s. Your remembrance of him and fond memories of him gave me a sense of legacy and recognition of the common connection between us. Your occasional remembrance and recitation of some past experience with my father always encouraged me and it inspired me to work harder, burn the midnight oil, and always strive for the best legal and legislative work product. Interestingly, you were like him in some ways and had a similar quiet demeanor and presence. I will never forget your sage advice regarding the authority and power of the Legislature to establish 'public policy' and unless it is patently unconstitutional, 'the Legislature can do whatever it wants to until the court rules it unconstitutional.' I have not forgotten and still believe that the Legislature is the most powerful branch of government.

**"House Leadership** – During my 23 years, I have had the great fortune to be engaged and participate directly in the leadership rank from my second term, or sophomore years, until 2012, or 18 of my 23 years. This gave me a great experience of serving the Democratic Caucus in many different roles, positions and title.

**"Speaker Souki** – I served under Speaker Souki from my freshman year (1995-1996) as an Assistant Majority Floor Leader, under Majority Leader Tom Okamura and Majority Leader Annelie Amaral. I also served with Rep. Jim Shon as his Vice Chair on the Energy and Environmental Protection ('EEP') Committee, and as a member of the Water and Land Use Planning ('WLP') Committee chaired by Representative Dwight Takamine.

"Off the top of my head, I recall getting assigned to two (2) conference committees; one in EEP and the other in WLP. Time has taken its toll on the EEP committee assignment but the WLP conference I remember distinctly well because it was a bill to extend the land exchange authorization of the Galbraith Lands for the Kapolei or Campbell Lands (UH West-Oahu) previously enacted by former Representative Bunda and Senator Hagino and signed into law by Governor John Waihee. But, now, there was a problem because the EPA had named the lands cultivated and leased to Del Monte as the State of Hawaii first commercial and non-government 'Superfund site' and thus raised issues of liability and contaminated lands, and appraised values of land to be exchanged and land to be acquired. Needless to say it was a complex issue (federal EPA laws and regulations, state environmental laws and regulations, and DOH rules and regulation, etc.) and legally questionable acquisition. I was, however, fortunate to gain the trust and confidence of Chair Takamine and he allowed me to take the lead on the conference. I recall being so nervous seated across Senator Brian Kanno and felt the burden of the world on my shoulder. Fortunately, he had a good understanding of the prior land exchange and was sympathetic to the Wahiawa town's concern over urbanization and loss of prime agricultural lands and exposure of the sacred Birthing Stones (Kukaniloko) to urban encroachment, and we quickly reached a compromise bill whereby the exchange would be allowed provided the EPA delist the Galbraith Lands from Superfund designation and approval by the attorney general. This was my first conference and it was successful because a senior member of the House trusted a new member of the body to take the lead and be responsible

for a bill near and dear to his own constituents and local stakeholders. I never forgot the trust given to me by Chairman Takamine, and years later when the EPA finally delisted the lands from the Superfund listing and we were able to reconsider the land exchange and acquire the lands from a multi-party purchase agreement put together by the Trust for Public Lands, I reminded then Chairman Takamine of how his trust in me years ago was bearing good fruit this day.

"Winning my re-election in 1996, I returned and was appointed the Majority Floor Leader and worked closely with Majority Leader Tom Okamura. Also on the leadership team was State Representative Paul Oshiro serving as Vice Speaker, Majority Whip Nestor Garcia, Assistant Majority Leaders Robert Herkes and Michael White. This was an interesting time in Hawaii politics and we wrestled with the 'hot button issues' of no fault insurance, high three reform, workers' compensation, medical malpractice, tort reform, and taxes (GET, personal income, corporate, intermediary, credits, GET deferential, etc.) and cost of living issues. These issues are no longer on the front page, but then these issues were the ones that caused more than a few heated discussions in the hallways, and hearings were long and contentious, and floor debates boisterous and at times long-winded and prolonged. This is where I cut my teeth on the House rules and Mason's and spent many long sessions in consultation with our House Attorneys Oamilda, Dvonch and Funaki. I consider those days some of the best examples of a vibrant and vigorous public discourse in a public forum.

"But, I would not change a single thing about that time. Governor Cayetano came in during a Hawaii recession and it was *in vogue* and popular to re-size or right-size local government. It was a time for bold and decisive policy decisions and the status quo was challenged. We did many good things. In hindsight, some bad decisions too.

"I am forever grateful to Majority Leader Tom Okamura who gave me the opportunity to work alongside him and learn the inside procedural and organizational structures of the House. I am thankful to Speaker Joe Souki for sending me abroad to attend leadership training sessions in Virginia, Kentucky and Georgia. He entrusted to me a key role on his leadership team and it set me on a trajectory that would allow me to serve in other leadership posts over the years. That he forgot how I departed his company in 1998 does not diminish the regard and admiration for this fearless public leader whose zealous and bold unwavering interest for the common man and poor and downtrodden will always be his hallmark much more so than his autocratic and occasional heavy hand.

"Speaker Say – I want to thank Speaker Say for his interest in giving chairmanship opportunities to our newest members and even those who returned to the body as sophomores (2 terms). Having served in leadership posts for most of my time in the House and deferring any chairmanship until appointed to the Chair of Labor and Public Employment, 2003-2004, or eight years, or until I was a senior (4 terms), I understand the interest and desire of many of our sophomores and juniors to ascend to a chairmanship post. This allowed those confident and dedicated younger members of the Caucus to advance much more quickly to chairmanships than when I first entered the House. This opened up the opportunities for the 'Yamanes,' 'Tsujijs,' 'Waters' and 'Caldwells' to take the reins of subject matter committee work and place their own mark on the policy and development of the law. Not many appreciate this breaking with tradition, and I am pleased to see the current administration adopting a similar policy and maybe accelerating advancement for members who demonstrate a strong work ethic and specialize skills or knowledge and interest. There is nothing more pleasing to a former leader than to know that his or her benchmark has been superseded by a new generation of public servants and leaders. Mr. Speaker, I am confident that your administration will set a new bar for those to follow.

"To Speaker Say, I want to thank you for allowing me to serve in many positions in the House and work hard for the community I love so much. I have no regrets except not being a better friend to you or even brother when you needed firm counsel and maybe correction and instruction. Still, we were able to lead the House, and to some measure the State, during the eight (2002-2010) years of the Lingle Administration, and wrestle with and be involved in navigating the State through the unpredictable and uncharted waters of the Great Recession, 2008-2012. Departing your side for a season and serving as the Chairman of the House Committee on Labor & Public

Employment gives me great confidence in my new role and has provided me tools and insights for good works. The severe and historical fiscal crisis tested our mettle and fortitude and made us better leaders and people. We returned to our Democrat roots time and time again to set our bearings and stand firm in the storm of controversy. It made us better people and public servants. It was our most glorious test and moment. I am certain that history will judge us kindly.

"Closing notes on reflection of 23 years in the House

"Mr. Speaker, I confess that it is very difficult to put down the pen and I feel that just scratched the surface of my reflection and remembrance. Simply put, I will miss the House of Representatives. The days of feasting and the days of fasting. The moments of success and the moments of sorrow. The battles won and the battles lost. Most of all, the privilege and honor we, you and me, and the other members have each day to rise and shine and face the new day with the honorable duty to again put our shoulder to the wheel to better the lot of our citizenry. To wake each day with the new opportunity to bend that arc of justice to address the needs of those without and those without a voice. To live and breathe and move to a single objective of service to others above self and strive and strive and strive however imperfect and human our means may be, we are fortunate to be called to this grand task.

"It has been my privilege, my old friend, to have had the chance to make amends, settle differences, and restore ourselves to a better place from where we once came some 23 years ago. I have not forgotten from where we came. The how and why remains fresh and clear.

"The other day, on the House floor, I made reference to a familiar quote that my father would use during political meetings, coffee hours, and even share at times with my two sisters and even the relatives. I found it the other day at my mother's house with some of my old papers. It was faded, dog eared, but useful for this purpose.

"However, perhaps indicative of future plans for me, it is peculiar that my final words shall not be my very own. Still, I hold them precious and dear, for they describe most eloquently how I have strived to live and serve the people of our great state over the last 23 years. It is my final prayer that it will resonate and be found to be appropriate and applicable to you and to my esteemed brothers and sisters in the Hawaii State House of Representatives. For today and for tomorrow. For the generations to come.

*Politics is the most hazardous of all the professions.*

*There is no other in which a man can hope to do so much good to his fellow creature and neither is there any in which, by mere loss of nerve, he may do so widespread harm.*

*There is not another in which he may so easily lose his own soul, nor is there another in which a positive and strict veracity is so difficult.*

*But danger is the inseparable companion of honor.*

*With all its temptations and degradations that beset it, politics is still the noblest career any man can choose.*

*-Andrew Oliver, 18th century American political leader*

"To each of you, I extend my best wishes for much success in all your endeavors. God bless you. God bless Hawaii. *Mahalo. Me Ke Aloha Pau Ole A Hui Hou.*"

Representative Ward: "Mr. Speaker, could we give three cheers for Judge Oshiro? Hip hip hooray. Hip hip hooray. Hip hip hooray. You're the man."

Representative Tokioka: "Thank you, Mr. Speaker. I didn't realize how much hay fever there is down on the floor just now, but my good, good friend, big number 85 from Leilehua High School, I love you, Marcus."

Representative Ward: "Mr. Speaker, request to insert comments in the Journal about our good friend who, Mr. Speaker, he and I started out really with an animus, but we ended up knowing that iron sharpens iron, and I'm really going to miss him, because I learned a lot from my brother. God bless you, Judge. Thank you, Mr. Speaker."

Representative Ward submitted the following:

ROUGH DRAFT

"Mr. Speaker, I wish to direct a few parting comments to my colleague whose face we will never see again on this floor as the good Representative from Wahiawa.

"Honorable Judge Oshiro, you're now going to be doing what the Lord has wired you to do, what your father fought for you to do, and what Hawaii's workers and employers are counting on you to do.

"You are a doer and a man of your word and the word. Thank you for your past contributions to the people of Hawaii thru your legislative service; and may you excel in bettering our state and people as a labor judge. You will be called upon to continue the high calling of doing justice, having mercy and walking humbly with your God.

"You will be dearly missed, especially as the man who taught me that 'iron surely sharpens iron.' The 'marketplace of ideas' we shared for many years together will surely be a duller place without you.

"*Aloha* and GBU and family!

"Thank you, Mr. Speaker."

Representative McDermott: "Same request."

Representative McDermott submitted the following:

"Marcus Oshiro is a proud Democrat, his late father is one of the legends of the Hawaii Democratic Party. Marcus has held many leadership positions within the State House. As a young man, he and I both served together in the 1990's. We were both fairly partisan and had numerous battles. Over the years, we began a friendship. Both our partisan views had mellowed and we both became more concerned with governing and doing what was best for the people than party.

"I will miss Marcus as a friend, a genuine friend. A man I could always go to for unvarnished advice. He would tell me what he thought, and the best way to proceed on an issue. I will miss him dearly. The body will lose an enormous reservoir of practical and corporate knowledge with his departure. But the State will gain with his appointment

"In closing, I will say that Marcus Oshiro is my brother, I have much affection for him, as a conservative Republican in the State House, we indeed were an odd couple united by the desire to make Hawaii better. *Aloha* Marcus, I wish you fair winds and following seas! I will miss you my dear Brother!"

Speaker Saiki: "Representative Oshiro, thank you for your friendship, and best wishes at the Labor Relations Board.

"We would also like to hear some closing remarks from the Minority Leader, Representative Tupola."

Representative Tupola gave her closing remarks on behalf of the Minority Caucus as follows:

"Thank you, Mr. Speaker. Thank you for this time. My *aloha* and my respect to all of my colleagues. I just wanted to say thank you to Representative Oshiro. It's not a secret that I'm not a lawyer. I went to music school, and I don't necessarily get everything here as easy, but he sat me down multiple times, showed me how to read a bill. He walked me through the law, he showed me how to prepare adequately for a hearing, he helped me with homeless issues, he showed me what it means to be a public servant, and I'm so grateful to him, because he went above and beyond to help me out to learn what it means to be a Representative.

"And I think my closing remarks is that we may continue to learn how to be true public servants, like how he has shown us this example, that we'll truly learn how to listen and serve our constituents, like how he showed us his example. And that we'll truly learn how to be principled and grounded in who we are and what we do here. And I'm so grateful for his example and for being a true friend to me. And on behalf of my caucus, we're so grateful for his service and for an upstanding job that he's done as a Representative.

"I thank you, Mr. Speaker, and all my colleagues, all my *aloha* and respect to each of you."

Speaker Saiki then gave his closing remarks as follows:

"Thank you. The Chair has some brief closing remarks. Actually, I'll truncate them, because I know it's been a long day for all of us. But first of all, I'd just like to begin with some thank-yous. So first, thank you to the staff and the volunteers of the House of Representatives and the Legislative Reference Bureau, who really went beyond and above to organize and prepare for this special session. There were five individuals from the Sergeant-at-Arms Office who volunteered this week, and I'd just like to note their names for the record. Heather Kelii, Henry Muronaga, Jon Shitabata, Glenn Gannigan and Jonathan Keen, thank you very much for volunteering your time this past week.

"Second, I wanted to thank the chairs and members of the subject matter committees who heard bills in this session. It took a lot of work to advance those bills, and we appreciate your work. These are, of course, the Committees on Labor, Transportation and Finance.

"Thank you also to the Senate leadership for your work over the past three months to get us to this point. As the Chair of the Finance Committee mentioned earlier, it wasn't a guarantee that we would be here today.

"Looking back at this past week, it's been pretty clear that this session posed some consequential issues for all of us to consider. And those issues include things like shared responsibility and fairness, and this session required us to reexamine basic concepts, such as the role of government, both at the state and county levels. Like all consequential matters, the answers to these questions are neither easy nor clear-cut.

"It also became more apparent to us this session that we must improve the relationship between the Legislature and county governments. The Legislature and the counties must work together to strengthen our relationship so that we can serve our mutual constituents to the best of our abilities. This will require focus, humility and hard work, for the consequences of inaction or the lack of a timely resolution pose significant risks for people on all islands and in every county. This is an important dialogue that will need to be informed by our neighbor island legislators, county mayors, councilmembers, and affected stakeholders statewide.

"In conclusion, I would like to thank the members of this body for your patience, your diligence, and your hard work during this special session. I have so much confidence in the members of this body, and I know that the House of Representatives has and will continue to serve the best interests of all of our residents. So thank you very much, members, for all of your hard work."

## ADJOURNMENT

Representative Evans moved that the House of Representatives of the Twenty-Ninth Legislature of the State of Hawaii, Special Session of 2017, adjourn Sine Die, seconded by Representative Tupola.

The motion was put to vote by the Chair and carried, and at 2:23 o'clock p.m., the Speaker rapped his gavel and declared the House of Representatives of the Twenty-Ninth Legislature of the State of Hawaii, Special Session of 2017, adjourned Sine Die. (Representatives Choy, Har, Hashem, Matsumoto and Nishimoto were excused.)

## SENATE COMMUNICATIONS

The following communication from the Senate (Sen. Com. No. 4) was received by the Clerk:

Sen. Com. No. 4, transmitting S.R. No. 3, entitled: "SENATE RESOLUTION INFORMING THE HOUSE AND GOVERNOR THAT THE SENATE IS READY TO ADJOURN SINE DIE," which was adopted by the Senate on September 1, 2017.