

Hawaii

# Aid In Dying Bill Clears Senate Despite Emotional Appeal

On a big day at the Capitol, senators also passed a rail tax bill while the House voted to decriminalize drug paraphernalia possession.

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By Chad Blair    Natanya Friedheim    / March 7, 2017

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Breene Harimoto said he stared death in the face but lived to tell about it.

Diagnosed with pancreatic cancer in June 2015, it was an unexpected outcome. There is a low survival rate for this form of cancer, and it can be a painful way to die.

“I thought my life was over,” Harimoto told his Senate colleagues Tuesday.

But, after extensive surgery and a lot of praying, Harimoto survived.

Speaking on the Senate floor, he urged senators to vote against medical aid in dying legislation, because he believes there is always a chance there will be a miracle recovery.

“It is a miracle that I am still alive,” he said, his voice choked with emotion.

In spite of the heartfelt plea, [Senate Bill 1129](#) passed 22-3, with just Sens. Mike Gabbard and Gil Riviere joining Harimoto in opposition.

Senate President Ron Kouchi said it was obvious to him that each of his members did some soul searching before voting. More than a few were visibly moved while Harimoto spoke.

SB 1129 is modeled on Oregon's law, which was approved 20 years ago.

"This is really about individual choice, that's what it comes down to," said Sen. Rosalyn Baker.

The bill now awaits consideration in the House of Representatives, where the 51-member body is said to be divided. Unlike the all-Democratic Senate, the House has six Republican members and more conservative Democrats.

Another major piece of legislation this session, a tax bill to help fund Honolulu's unfinished rail project, also cleared the Senate on Tuesday, just ahead of Thursday's "first crossover" deadline. The vote on [Senate Bill 1183](#) was unanimous.

Again, what will happen in the House is a mystery. SB 1183 currently calls for returning from the state to the city the 10 percent administrative fee (or



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Senator Breene Harimoto tells his colleagues why he opposes medical aid in dying legislation.



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“skim”) levied on Oahu’s surcharge on the general excise tax.

That would mean about \$300 million for the city, which would still have to find about \$500 million more to make up the project’s deficit. The surcharge would sunset in 2027,

Sen. Laura Thielen wipes away tears after Harimoto shared his first-hand experience “staring down death.”

and SB 1183 does not call for extending the tax indefinitely, as city officials proposed.

A third major bill also passed over to the House, and it too is tax-related. [Senate Bill 686](#) would levy a surcharge on high-end residential investment properties and visitor accommodations to fund public education.

Senate Vice President Michelle Kidani, chairwoman of the Education Committee, said the state finally had to commit itself to helping schools instead of continuing to put the future of keiki “on hold.”

SB 686 passed 24-1 while a similar measure, [Senate Bill 683](#), was approved 23-0. (Two members were excused.) SB 683, if approved by the House and signed into law by the governor, will put the “education surcharge” before



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A somber Senate President Ron Kouchi during the floor debate on medical aid in dying.

voters as a constitutional amendment question.

The Senate's agenda was so heavy that the chamber did not conclude floor votes until well after the House finished its own work — something that has not happened in recent memory.

A rare moment of levity came when Sen. Josh Green, a medical doctor, warned that passing a measure to allow a naturopathic physician [to prescribe testosterone](#) could result in the shrinkage of testicles. It passed, too, but only after a lot of smiles and chuckles.

## Want To Be Prez? Show Us Your Taxes

Bills flew through the House on Tuesday, even with lengthy conversations about vacation rentals and President Donald Trump's tax returns.

"If there's one word to describe all of you: efficient," Vice Speaker John Mizuno said in closing the session.

Representatives approved demanding tax returns from future candidates for presidential and vice presidential candidates with [House Bill 1581](#).

The bill requires they release their federal income tax returns [in order to qualify for a place on Hawaii's ballot](#). It would also bar electors for the state's Electoral College from voting for candidates who fail to release their tax returns.

Rep. Chris Lee of Windward Oahu defended his bill. He urged lawmakers to take a stand against the lack of transparency demonstrated by Trump, who has [not released his tax returns](#).

"We have an obligation as a state to act because the federal government will not," Lee said.

Rep. James Tokioka of Kauai agreed with Lee's sentiment but opposed the bill, expressing concerns that challenging the White House might jeopardize



Requiring presidential candidates to share their tax returns took up a lot of floor time in the House on Tuesday.

“I’m just dismayed that it seems that some of the tenor of conversation is ‘Let’s give into fear of what he’ll do in response,’” LoPresti said, referring to Trump.

Rep. Kaniela Ing opposed the bill, arguing that elections should be about issues important to constituents rather than the candidate’s finances. He added that candidates who are in debt or don’t have a lot of money might be looked on scornfully.

“(Elections) should be about the issues and what the public wants,” he said. “Not class shaming because you’re too poor.”

federal funding to Hawaii.

“The unintended consequences might be great,” he said.

Rep. Lynn Decoite and Rep. Della Au Belatti agreed.

“We have to be strategic in how we interact with this administration,” said Belatti, who changed her position on the floor. “We should pick our battles wisely.”

But Rep. Matt LoPresti supported the bill and fought back against Tokioka’s argument.

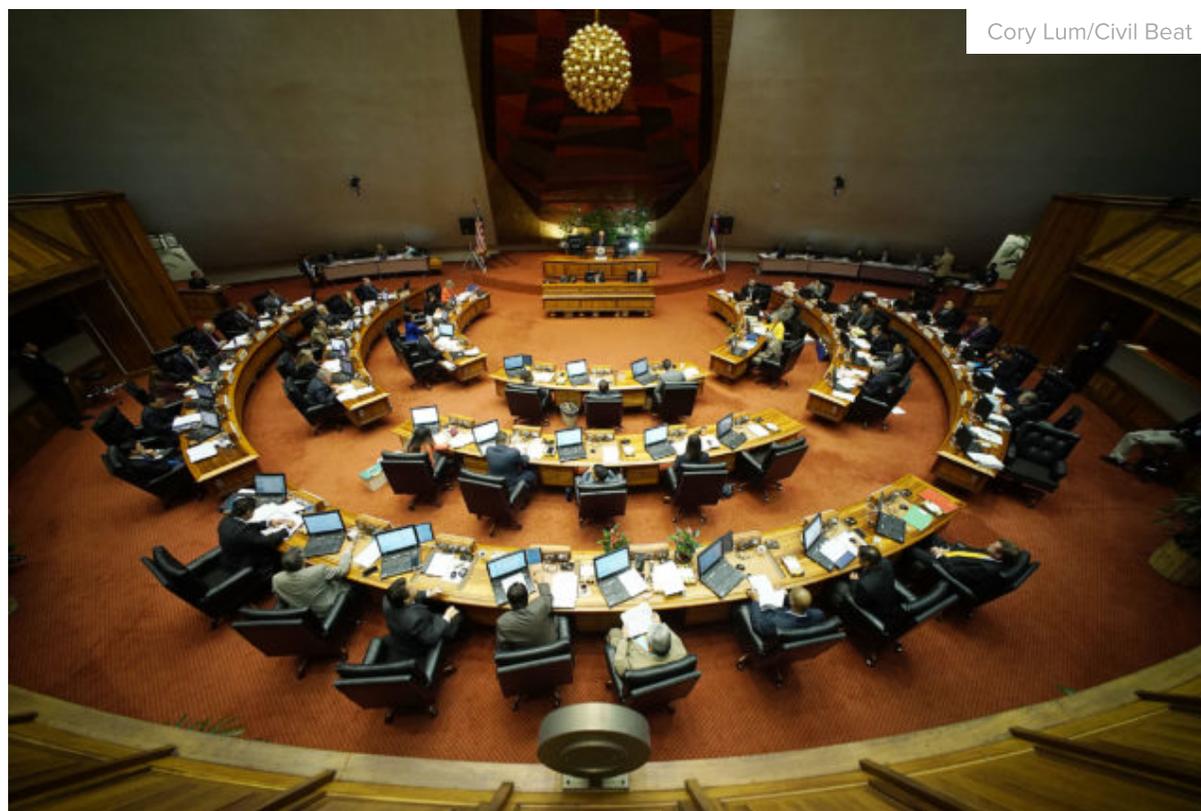
The bill passed, with 36-15.

A bill regarding decriminalizing drug paraphernalia stirred debate among lawmakers, too.

[House Bill 1501](#) would downgrade the punishment for possession of paraphernalia from a criminal offense with a penalty of five years in prison and a \$10,000 fine, to a civil violation with a fine of \$100 and no jail time.

The Department of the Attorney General submitted testimony in opposition, contending that people are rarely given a five-year sentence for possession of drug paraphernalia.

Rep. Andria Tupola, one of six House Republicans, agreed.



Cory Lum/Civil Beat

In a rare development, the House adjourned well before the Senate.

“If we’re trying to affect how many people are in prison, this probably is not the way to do it,” she said.

The prosecuting attorneys for Hawaii Island, Kauai and Honolulu also opposed the bill.

The ACLU of Hawaii, the Office of Hawaiian Affairs and the African American Lawyers Association were among those that submitted testimony in support of the bill.

“Native Hawaiians are disproportionately penalized with imprisonment for drug-related offenses,” OHA wrote in [testimony](#).

The bill passed with five representatives voting no.

## Debating The Airbnb Bill Again

House members also conferred on [a bill](#) that would require [Airbnb](#) and similar online vacation rental platforms to collect state taxes from rental operators.

The companies would collect taxes from both legal and illegal vacation rentals in the state.

Opponents argue the bill would allow people to continue operating illegal vacation rentals and leave the state unable to practice oversight.

Rep. Bert Kobayashi cited concerns that vacation rental operators would not have to follow county rules, and the state could not collect evidence to track bed and breakfast rentals.

“This proposal would shield the evidence behind the cloak of an Airbnb platform,” he said.

Gov.David Ige vetoed a similar bill last year.

# “Maybe we’ll get the tax but we’ll destroy our local neighborhoods.” — Rep. Cynthia Thielen on the Airbnb bill

Opponents of short-term vacation rentals in residential properties argue the rentals drive up rents in a state struggling to provide affordable housing to its residents.

“Maybe we’ll get the tax but we’ll destroy our local neighborhoods,” said Republican Rep. Cynthia Thielen.

A number of representatives said they had received emails in support of the bill from people who claimed to be their constituents but were not.

Of the 18 emails received by Kobayashi’s office in support of the bill, only three were identified as his constituents and two as voters in Hawaii. He said he suspects that the rest came from people who are not residents of Hawaii, but do business with Airbnb.



Vice Speaker John Mizuno complimented his members on doing floor business in an efficient manner.

Kobayashi added that the last names of the emailers did not reflect those of his constituents.

“Thank you very much, investigator Kobayashi,” Mizuno said after Kobayashi’s floor speech.

One of the most contentious bill this session did not get a discussion Tuesday.

[House Bill 790](#), which would require companies to disclose their pesticide use, was amended on the floor but awaits final action Thursday, the crossover deadline.

## Red Light And Cop Body Cams Pass

Other measures passing the Senate on Tuesday after floor discussion were ones reducing [blood-quantum requirements](#) for Hawaiian home lands applicants, prohibiting adults [from smoking in cars](#) when people under 18 are inside, banning [sunscreens with oxybenzone](#) on beaches unless it is prescribed, and allowing psychologists [to prescribe medication](#).

Other legislation making the cut were bills establishing a photo [red light imaging detector](#) program, setting up [a kupuna care program](#) to help working people care for their aged loved ones, allowing the media to [access emergency areas](#) under certain conditions, requiring police departments to disclose to the Legislature [the identity of officers](#) after a discharge or second suspension within a five-year period, and setting up requirements for [body-worn cameras](#) for cops.

Senate bills which now appear dead include ones having state agencies heed the advice of [a feral cats task force](#), changing the makeup of [county police commissions](#), creating [buffer zones](#) for pesticides, prohibiting people on [a terrorist watch list](#) from owning firearms, and increasing the fuel tax, [vehicle weight tax](#) and registration fee.

Other measures that cleared the House included bills that set aside funds for [lifeguards on at Kua Bay](#) on Hawaii Island, search for [sites to relocate](#) the Oahu Community Correctional Facility and set provisions for the new facility,

clarify the [definition of lobbyists](#), and clarify rules about drones and other [unmanned aerial vehicles](#).

And, a bill that requires mediation for actions on [quiet titles regarding kuleana lands](#) also moved from the House to the Senate. The bill was introduced after a land dispute involving Facebook founder Mark Zuckerberg.

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