

Federal Lawsuit Filed Against Honolulu Rail Project

Compiled from resource material at HonoluluTraffic.com

Honolulutraffic.com, Inc., filed a federal lawsuit on May 12 against the City & County of Honolulu's \$5.5 billion fixed rail project.

Plaintiffs are former Hawai'i Governor **Benjamin J. Cayetano**, the **Small Business Hawai'i Entrepreneurial Education Foundation**, Judge **Walter Heen**, former chair of the Hawai'i Democratic Party and former Trustee of the Office of Hawaiian Affairs, Hawai'i non-profit corporation Honolulutraffic.com Inc., **Dr. Michael Uechi MD**, Hawai'i non-profit corporation Hawaii's Thousand Friends, UH Law Professor **Randal Roth**, and **Cliff Slater**. HonoluluTraffic.com anticipate amicus briefs will be added subsequent to the filing of the lawsuit.

Defendants are: The Federal Transit Administration (FTA), **Leslie Rogers** as Regional Administrator, **Peter M. Rogoff** as Administrator and for the U.S. Department of Transportation, **Ray LaHood**, Secretary of Transportation, and for the City and County of Honolulu, **Wayne Yoshioka**, Director of the Department of Transportation.

In the Complaint the plaintiffs have listed the "Violations of Law" on three statutes, the **National Environmental Policy Act (NEPA)**, the **National Historic Properties Act (NHPA)**, and Section 4(f) of the **U.S. Transportation Act of 1966**:



Continued on page 4.

Author Bob Sigall to Speak at Sunrise Breakfast

The next SBH Sunrise Networking Breakfast will be held Thursday, May 26, from 7 – 8:30 am in the Pineapple Room at Macy's Ala Moana Center. The public is welcome and advance reservations are required.

This month's speaker will be best selling author **Bob Sigall**, widely noted for his series of books titles, *The Companies We Keep, Volumes 1, 2, and 3* and as a marketing expert for his firm Creative-1. His topic is, "Marketing Your Business".

Last month's speaker was **Cliff Slater** of Honolulu Traffic.com who updated the audience on the lawsuit against Honolulu's elevated rail.

SBH members and their guests pay \$25 (in advance) for networking, the program, a complete buffet breakfast and free parking. Participants are all introduced and may bring promotional materials. The cost is \$35 at the door if space is available.

Complete and submit the reservation form on page 11 or contact Darlyn at SBH, 808-396-1724.



SBH MEMBER CALENDAR

PHONE 396-1724 • FAX: 396-1726

Thursday, May 26
SBH Networking Breakfast
Bob Sigall
 Pineapple Room
 Macys' Ala Moana Center
 7 – 8:30 am

Friday, September 16
SBH Foundation
4th Annual Awards Banquet
 Waialae Country Club
 5:30 – 8 pm

SmartBusiness
 HAWAII

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Smart Business Views

By Sam Slom, President – Smart Business Hawaii

Thank goodness the 2011 Legislative Session adjourned its regular session May 5.

But it may come back in a Special Session by early June. Major tax hikes dodged but still taxes were raised. Sorry, no marijuana “compassion centers” or state run bank. (See full story, page 3).

Pro business? News reports reveal prostitution in Hawaii is up substantially despite (or because of?) more new laws. The “pros” expect to do record business here in November when foreign dignitaries come to attend APEC.

STOP DA RAIL! The lawsuit to stop Honolulu’s \$6 billion-plus elevated train to nowhere was filed May 12. Plaintiffs include, **Cliff Slater**, Honolulu Traffic.com, former Governor **Benjamin Cayetano**, former judge and Democratic Party head, **Walter Heen**, “Broken Trust” author and attorney, **Randall Roth**, **Donna Wong** of Hawaii’s Thousand Friends, and the Small Business Hawaii Entrepreneurial Education Foundation. Attorney for the plaintiffs is nationally known environmental attorney and legal expert, **Nicholas Yost**. Want to donate to the suit? Donations are accepted by the non-profit SBH Foundation, 6600 Kalaniana’ole, Suite 212, Honolulu, HI 96825.

Ho-hum. **Matson** raising its surcharge again (4th time this year) in July. Higher shipping costs and food costs? Of course.

Don’t ya love the local media spin on business stories? Most local radio/TV/newspapers (reading out of the same source) in early May reported, “Business will save \$3 million on HMSA health care costs.” Saving? HMSA announced yet another rate increase but the State Insurance Commissioner reduced the premium hike (for now), thus a lesser increase. No saving.

Yes, SBH is looking for new digs. Our lease expires August 31. Got space? With parking? Call me at 808-396-1724.

Remember to listen to **Malia Zimmerman** of Hawaii Reporter.com, daily (M-F) on the **Rick Hamada Show**, KHVH radio on 830 AM at 7:20 am. She will report the business and financial news behind the news for you.

Ann, tell us it isn’t so! Councilwoman **Ann Kobayashi** introduced a bill in the City Council to ban any person from using “a mobile electronic device while crossing a street or highway.” What? First a cell phone ban in autos. Now a pedestrian ban? The Council has too much time on its hands.

Council member Stanley Chang, who succeeded **Charles Djou**, says publicly that he is opposed to tax hikes but seems to vote for them anyway. The local electronic media doing a better job of keeping all elected officials transparent and honest.

Microsoft is spending \$8.5 billion to purchase **Skype**. Skype hasn’t made any money but is wildly popular for free video messaging. Will that end now with the Microsoft buyout? They have to make money from the deal. Fed regulators still have to approve the deal.

If you are concerned about bacteria and lead, but want to ban paper bags and plastic for the colorful green totes, you better do some homework. Start with a story by **Jack Dini** in Hawaii Reporter.

Jim Dooley of Hawaii Reporter broke the exclusive story about the state DHHL (Hawaiian Homes) deputy, **Bobby Hall**, who ordered expensive personal exercise equipment on the taxpayer dime. (Just a small example of government waste and largesse) DHHL first denied the story. So did the Guv’s office. A week later Hall was asked to resign by the Guv.

Dooley also reported that the original cost of the City’s rail EIS was \$86 million but the current cost mushroomed to \$156.2 million.

Hotel owner Kyo-Ya is chipping in \$1/2 million of the total \$2.5 million to replenish Waikiki Beach with sand that has seriously eroded. The Hawaii Tourism Authority will also donate a like amount to help add 24,000 cubic yards of sand from offshore deposits. The project is expected to begin at the end of the year and add many local jobs.

The Aulani Disney Resort at Ko Olina will hire 800 new employees for its August hotel opening.

Your **HECO** electric bill too high? Rising? Even with solar? Relax. Parent Hawaiian Electric Industries, Inc. CEO Connie Lau is pulling down a cool \$5.1 million after a \$3.1 million raise during 2010.

The next **SBH Sunrise Networking Breakfast** will be held, Thursday, May 26, in the Pineapple Room, Macy’s, Ala Moana Center, 7 – 8:30 am. Our speaker is, Speaker is **Bob Sigall**, Best Selling Author (“The Companies We Keep”) and marketing expert (Creative-1) Call Darlyn at SBH 396-1724 for reservations.

For the latest in small business news and special events and alerts, go to our website at www.smartbusinesshawaii.com or call SBH at 808-396-1724.

SBH Awards Banquet Slated for Sept. 16.

On Friday, September 16, the Small Business Hawaii Entrepreneurial Education Foundation will hold its annual Small Business Awards Banquet at the newly renovated Waialae Country Club.

You can nominate your business or another for an award by emailing SBH@lava.net.

Categories include: Lex Brodie Small Business of the Year, Jean Fukuda Civic Leadership, SBH Young Entrepreneur, SBH Business Booster, Business All Stars and several media awards. Call Darlyn for further information at 808-396-1724.



Awardees at 2010 SBH Banquet.

SMALL BUSINESS NEWS

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Small Business Hawaii (SBH), was founded in 1975, by Lex Brodie. SBH is a private, independent, non-profit [501 (c) (6)] statewide association of nearly 2,000 business members.

SBH is dedicated to improving Hawaii’s business climate, creating a better Hawaii through private, competitive enterprise, and promoting, educating, and effectively representing small business, while advocating tax reduction, lower business costs and job creation incentives to diversify Hawaii’s economy.

SBH invites comment small business issues in Hawaii. Send them to Small Business Hawaii by the 10th of the month for the next issue. SBH accepts advertising only from SBH member firms. Call SBH for details on advertising.

Hawaii Lawmakers Raid All Kinds of Special Funds

By Hawaii Reporter.com

The 6-cent tax on all cans and bottle beverage containers sold in Hawaii is supposed to fund a mandatory state recycling program. But lawmakers raided that special fund this year for \$300,000 to help balance the state budget and projected \$1.3 billion budget shortfall for fiscal years 2012 and 2013.

That's not all. They drained the Hawaii Hurricane Relief Fund for \$120 million to fund education, and they raided the Rainy Day Fund as well.

At least 21 other special funds were depleted as Hawaii lawmakers voted to "scoop" them for a total of \$18,609,988. In addition, another 21.5 percent of the Tobacco Special Fund, which is supposed to fund education and health related to smoking, was diverted to the state general fund.

The fund raids ranged from \$1 million from the state's Risk Management Revolving Fund, to \$500,000 for the state's Medicaid Investigations Recovery Fund, to \$2 million from the state's Mental Health and Substance Abuse Special Fund and to \$1.5 million from the Compliance Resolution Fund.

There were also raids to the Environmental Management Special Fund for \$750,000, the Special Unemployment Insurance Administration Fund for \$1.5 million, the Community Use of School Facilities Special Fund for \$1 million, the Trauma System Special Fund for \$1 million, and the Captive Insurance Administrative Fund for \$2.5 million.



State Legislators met in various conference committees during the final weeks of the 2011 session. Many proposals to raise taxes were considered during the session, with several dying on the vine including a GE tax increase, taxation of pensions and taxation of internet purchases.

Another fund that is supposed to offer training for the unemployed, which employers are taxed for and must pay into, also was raided for \$44,000.

No area appeared to go untouched. An estimated \$77,000 was drained from a Drug Demand Reduction Assessments Special Fund; \$916,284 was scooped from the Healthcare Revolving Fund, \$520,780 was taken from the University of Hawaii Faculty

Housing fund, \$21,440 was raided from the Travel Agency Education Fund, and \$500,000 came out of the Stadium Special Fund.

Sen. Sam Slom, who votes against the creation of every single special fund in the state, said the legislature can drain these funds without the public noticing and create a backdoor tax and fee increase, when the public has to replenish them.

Selected List of Bad Business Related Bills

Some of the bad bills that were voted upon include the following:

HB 200: The \$22 billion State Budget bill made only modest cuts to a few programs. Most of the cuts were to executive budget increases. Even with these modest costs and new funding mechanisms, the budget will end up being "unbalanced".

SB 1520: The native Hawaiian caucus passed what the "Akaka Bill" couldn't do with this foot in the door bill that will someday force a new government on everyone. The bill sets up a roll call commission to register people of Hawaiian ancestry. This is a localized form of the federal "Akaka Bill" that will create more government bureaucracy, mandates and cost in the future.

SB 1328: This bill increases vehicle registration fees.

SB 1329: This bill increases to the vehicle weight tax. County taxes may also increase.

SB 1221: This is a bill that requires construction procurement contracts to use 80% "local" employees. A similar measure that passed last year was ruled un-constitutional.

SB 1270: Raids the hurricane insurance special fund.

SB 570: Eliminates the personal deduction for taxpayers with income above specified thresholds.

SB 754: This bill suspends general excise tax exemptions for certain persons and entities on their gross amounts. Passed out of the Senate 17 to 8.

SB 120: This "raid" bill transfers balances of certain special funds to the general fund. Also converts some revolving funds into special funds. Diverts part of the tobacco settlement special fund to the general fund.

NFIB Hosts Business Forum

The **Hawaii National Federation of Independent Business (NFIB)** chapter is hosting a small business forum Wednesday, May 25, 7 – 9 am at Sam Choy's. Speakers will include tax and labor attorneys **Nelson Befitel, Ron Heller, John Knorek, Barbara Krieg**, as well as **Patrick Parsons** of *Hawaii Business* magazine. Registration is \$20. Call Eliza at 397-4026 for info.

Federal Lawsuit Filed Against Honolulu Rail Project Continued from page 1.

Count 1: defining the purpose and need so narrowly as to preclude consideration of all reasonable alternatives

Count 2: failure to consider all reasonable alternatives (NEPA)

Count 3: failure properly to analyze the environmental consequences of alternatives (NEPA)

Count 4: improper segmentation (NEPA)

Count 5: failure to identify and evaluate use of native Hawaiian burials and traditional cultural properties (section 4(f))

Count 6: arbitrary and capricious evaluation of the project's use of section 4(f) resources (section 4(f))

Count 7: improper project approval (section 4(f))

Count 8: failure to account for effects on historic properties (NHPA)
Prayer for relief

The plaintiffs are asking the court to rescind the Record of Decision (ROD), declare the Final EIS, 4(f) evaluation, and ROD as legally inadequate and find that the Defendants have violated these statutes and also the Administrative Procedure Act ("APA"). The court is also being asked that the City and the Federal Transit Administration revisit the environmental process and this time follow the law, and that the City take no action that would have an adverse environmental impact, or take no action that would limit the choice of alternatives.

You may visit the Complaint and determine for yourself whether you believe these claims are reasonable. Download the PDF at this link: <http://www.honolulutraffic.com/Complaint.pdf>

The primary attorney is **Nicholas Yost** who was formerly General Counsel of the President's Council on Environmental Quality, and was responsible for drafting the regulations that implement the National Environmental Policy Act and its environmental impact statement requirements throughout the federal government. He was last year's

winner of the American Bar Association's Award for Outstanding Achievement in Environmental Law and Policy.

The Federal Transit Administration has 60 days to respond to the Complaint.

Judge A. Wallace Teshima, a senior judge of the United States Court of Appeals for the Ninth Circuit, headquartered in San Francisco will has been assigned to preside over the case after local federal judges recused themselves from the case.

Individuals and organizations wishing to help fund the lawsuit can make a tax-deductible donation to **SBH Foundation Rail Fund, 6600 Kalaniana'ole Hwy, Suite 212, Honolulu HI 96825.**

For more information visit the following online resources:

Honolulu Traffic.com

<http://honolulutraffic.com/>

"The Complaint"

<http://www.honolulutraffic.com/Complaint.pdf>

Smart Business Hawaii

<http://www.smartbusinesshawaii.com>

Small Business Entrepreneurial Foundation

<http://www.sbhfoundation.org/>

UHERO Releases Economic Report — Recovery Seen

EDITOR'S NOTE: The University of Hawaii Economic Research Organization released the following report about the impact of the Japanese Earthquake and Tsunami on Hawaii's economy.

"After dramatic improvement in 2010, the visitor industry has suffered a setback with the sharp falloff in Japanese travel following the March earthquake and tsunami. Because of the damage to travelers' confidence and willingness to spend, the Japanese market recovery will be gradual, slowing the pace of the Hawaii visitor industry expansion in 2011.

"Baring a further sharp increase in energy prices, the drop in Japanese visitors will not derail Hawaii's economic recovery. Limited job growth has taken hold in recent months, and we expect that to continue to broaden and deepen this year.

"Economic recovery spearheaded by gains in tourism continued through March with the sixteenth straight month of positive arrivals growth. Japanese arrivals were up 16% in the first two months of the year, although they fell off sharply after the earthquake.

"Performance was strong across all other major market segments: first quarter US visitor arrivals were 8.5% higher than a year earlier, and Canadian arrivals were nearly 25% higher. Visitor expenditures continued to climb in March, posting their eleventh straight month of 10% or better year-on-year gain.

"The pace of visitor recovery will be slowed, but not halted, by the aftereffects of the March 11 Great Tohoku earthquake. Although damage to Hawaii infrastructure was limited, the earthquake and tsunami have had a significant adverse effect on Japan and on the willingness of Japanese consumers to spend on luxuries. In recent weeks, airline passenger counts from Japan have been running about

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Statewide Long Range Transportation Plan Update

By Natalie Iwasa, CPA, Inc.

Last fall the state Department of Transportation solicited volunteers and selected 20 individuals representing a range of transportation users to participate in the Stakeholder Advisory Committee (SAC) of the Statewide Long-Range Land Transportation Plan. The committee held its second meeting recently and prioritized goals that fit into the eight planning factors that were outlined in the January issue of *Small Business News*. I represent the business community and am seeking comments on the goals and other concerns business owners and managers have.

1. The preliminary statewide priority of goals is as follows:
2. Provide a Complete Streets transportation system of motorized and non-motorized options;
3. Promote long-term resiliency relative to all hazards mitigation, namely global climate change, with considerations to reducing contributions to climate change from transportation facilities, and reducing the future impacts of climate change on the transportation system;
4. Promote efficient travel between modes by creating connections and removing barriers;
5. Maintain a safe transportation system for all modes;
6. Provide appropriate and reliable transportation access options statewide to all users;

UHERO

Continued from page 4.

25% below year-earlier levels.

"While there are recent promising signs, such as the decision by Japan Airlines to restore a Narita-to-Honolulu flight that it had suspended after the quake, the Hawaii Tourism Authority reports that scheduled airline seats from Japan are expected to be almost 10% below year ago levels for the April-June period. Recovery to nearly normal levels will take more than a year.

"The recently announced 30% increase in fuel surcharges on ANA and JAL flights will also weigh heavily on Japanese travel. For the year as a whole, Japanese arrivals will post a nearly 11% loss, but rebound by more than 10% in 2012.

"Prospects for the US market remain good, although we expect a tapering off of gains after the buoyant performance in 2010. This year US arrivals will expand by 4.7%, with an additional 1.5% gain in 2012. Visitors from countries other than the US and Japan will expand by 8.7% this year, compared with last year's very strong 19.6% growth.

"Total arrivals will grow 2.7% this year and 3% in 2012. By next year, the annual average for both visitor arrivals and visitor days will be just 1.5% lower than the level in 2007. Visitor industries on the Big Island and Kauai will continue. "The Japanese earthquake has led to a pause in visitor industry growth, but unless we see a further spike in oil prices, Hawaii's economic recovery will continue to build strength.



Tourists In Waikiki

7. Promote the use of sustainable practices in designing, constructing, operating, and maintaining transportation facilities and programs;
8. Plan, maintain and operate a transportation system that supports evacuation, response and recovery for incidents;
9. Promote safe modal connections between alternatives;
10. Ensure transportation investments in programs and prioritization processes are balanced (across modes and demographics i.e. serves environmental justice populations);
11. Improve capacity and efficiency of the existing transportation system for long term benefit;
12. Meet or exceed the relevant environmental regulations and standards set by Federal, State, and County/City agencies. Maintain collaborative working relationships with agencies and comply with goals of their relevant plans and policies;
13. Obtain sufficient and specific transportation funding;
14. Preserve and enhance Hawaii's cultural resources environment, including archaeological and historical sites;
15. Maintain safe, efficient, complete transportation system for the long-term;
16. Promote the expansion and diversification of Hawaii's economy through the efficient and effective use of transportation facilities including movement of people, goods, and services in a safe, energy efficient, and environmentally sound manner;
17. Improve safety of the community through connectivity of the transportation infrastructure;
18. Improve resiliency of the State through the transportation system;
19. Preserve and enhance the natural environment, including biological and aesthetic resources;
20. Manage transportation assets and optimize investments;
21. Coordinate use of public right of way with other public service providers;
22. Provide on-going planning to assess and address statewide needs; and
23. Optimize project delivery.



Next steps for the committee include reviewing transportation system needs and then developing specific alternative solutions for evaluation. The general public will have a chance to review a draft of the long-range plan later this year but you have an opportunity to make comments now. Please contact me at 395-3233 to provide specific input on the goal priorities or other land transportation concerns you may have.

Hawaii, Other States, Form Caucus to Oppose TSA Intrusions

By **Sam Slom**, State Senator District 8 (R)
Originally published in *HawaiiReporter.com*

Believing that the federal Transportation Security Administration (TSA) has gone too far in an assault on individual and states rights, a new, national, bipartisan legislative caucus is emerging to take action.

Dubbed tentatively the "United States for Travel Freedom" caucus, it officially convened on April 14, 2011 via teleconference and live video streaming (<http://alaskalegislature.tv/>).

The mission of the caucus is to, "establish a centralized location to share information regarding

- detailed information of federal security policies as they pertain to the right to travel freely;
- detailed information on how these policies affect the citizens of the United States of America;
- detailed information on methods of screening and the accumulative costs of these procedures.

Primary organizers are Alaska State Representative Sharon Cissna and Washington State Senator Val Stevens. Republican and Democrat legislators from Alaska, Hawaii, Michigan, Montana, New Hampshire, New Jersey, Pennsylvania, Texas and Washington have pledged to work together for common goals to oppose what is perceived as an ever growing threat to liberty by the TSA. Additional state legislative participation is anticipated.

Each of the lawmakers involved to date has introduced legislation in their state to curb what they, and their state's citizens, believe to be excessive power by the TSA.

Specific issues include constitutional rights, invasion of privacy and civil rights, child protection and fiscal issues. Many of the state bills call for individual state prohibitions on TSA procedures with the ultimate goal federal action against the operations of the TSA itself. (a series of legislative lists regarding pending legislation may be found at <http://www.akhealthcaucus.org/TSA.php>)

I introduced SB 1150 in January, 2011, "Relating to the use of Body Imaging Scanners at Airports." The bill would make it illegal to use non-consensual full body imaging de-vices at Hawaii airports.

There were four Democrat co-signatories. The bill was referred to three separate commit-tees, but never given a hearing. It will be back in 2012.

The full imaging device was installed at Lihue, Kauai, in mid-2010. A second unit was placed in service in Honolulu in October 2010, and to date, two more of a planned six units are in operation in Honolulu.

For years, a growing number of people and organizations have raised red flags about the operations of the TSA, its costs and its effectiveness, or lack thereof, of ever identifying a single terrorist or crime, while inconveniencing and traumatizing hundreds of citizens. Now TSA will be unionized.

There are several national and local controversial issues involving TSA. Last week, a video surfaced on Drudge.com, showing (video and audio) the detailed "patting down" of a six year old child. Parents were horrified.

In March, 2011 in Honolulu, KITV investigative reporter Keoki Kerr uncovered a series of incidents at Honolulu International Airport where more than two dozen TSA screeners were not in fact screening checked luggage. The lapse had gone on for months. At least 27 TSA Honolulu officers are currently under a federal probe for these actions.

A former Honolulu TSA employee, Dawn Nicole Keka, is facing embezzling charges for allegedly stealing cash from wallets of Japanese visitors in Kona on the island of Hawaii. Keka was arrested last week and she resigned her job on April 11. The TSA initiated a sting operation after numerous allegations had arisen during the past several months.

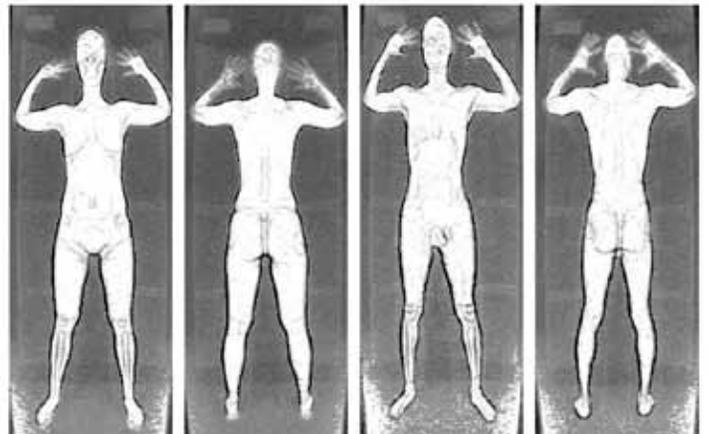
It should be remembered that Alaska Representative Cissna made headlines previously, when she, a breast surgery survivor, refused invasive TSA handling and was denied aircraft boarding to return home to Anchorage. She was forced to use several other forms of alternate transportation.

In Hawaii, there are no other alternate forms of transportation.

The next caucus meeting is set for May 24. Individuals or organizations in Hawaii who would like more information may contact me directly at senslom@capitol.hawaii.gov or on my cell at 349-5438.

Five Women to be Honored by the YWCA of Oahu

YWCA of Oahu announced five women to be honored at the 34th annual Leader Luncheon, a fundraiser for the YWCA of Oahu on Wednesday, June 8, 11 a.m. – 1 p.m. at the Hilton Hawaiian Village. The honorees are: **Vicky Cayetano**, president & CEO of United Laundry Services; **Colleen Minami**, vice-president of Aloha Medical Mission; **Suzanne Chun Oakland**, Hawaii State Senator; **Catherine Payne**, retired principal of Farrington High School; and **Linda Rosario**, owner/operator of Grelyn of Hawaii, Inc., the state's largest McDonald's franchise company/ YWCA Member Christine Camp, president and CEO of Avalon Group and Gabe Lee, executive vice president of American Savings Bank, co-chair this signature event that supports the YWCA and its programs. For registration or information: Telephone (808) 538-7061 ext. 675. Online at www.ywcaoahu.org.



The next time you're passing through airport security, TSA may be taking more than a passing view of you. New airport security scanners may be invading your privacy by revealing more of you than ever before. A coalition of legislators from several states head a new "United States Travel for Freedom Caucus" aimed at restoring individual privacy away from the peering lens of new security cameras.

President Obama's Attack on Private Industry

By **Mike Brownfield**, Heritage Foundation
As published on "The Foundry" at Heritage Foundation,
<http://blog.heritage.org/?p=59015>

You might think that a U.S. company's decision to expand its manufacturing facilities and create 1,000 new jobs here at home — rather than overseas — would be hailed by the Obama Administration as a step in the right direction, especially with nine percent unemployment. You'd be wrong. Instead, President Barack Obama's National Labor Relations Board (NLRB) is doing all it can to throw a wrench in the machinery of private industry.

The story begins with Boeing Corporation's decision to build a new assembly plant in Charleston, South Carolina, in order to produce the 787 Dreamliner, the company's fastest selling airliner. (To date, Boeing has 800 planes on order.) The NLRB, which is charged with remedying unfair labor practices, got wind of the decision and last month filed a complaint against Boeing, alleging that the company decided to build the plant in South Carolina out of retaliation for union strikes at its Washington state facilities.

Those locations have caused difficulties for Boeing. The International Association of Machinists (IAM) regularly goes on strike during contract negotiations, causing Boeing to miss orders and costing it billions in lost business. Boeing considered building its new plant in Washington, but the IAM refused to sign a long-term no-strike agreement. That played a role in Boeing's decision to expand into South Carolina, a right-to-work state with a good business and tax climate, as Heritage's Rea Hederman, Jr., and James Sherk explain.

The NLRB's actions are drawing strong criticism from Republicans in the U.S. Senate. "It's clearly outside of the authority of this federal government to be threatening and bullying and trying to intimidate companies like Boeing who should have the freedom to locate their plants anywhere they want. It's intimidation," Senator Jim DeMint (R-S.C.) said Wednesday. DeMint joined with 18 senators in writing a letter to the president last week condemning the NLRB's complaint:

We consider this an attack on millions of workers in 22 right-to-work states, as well as a government-led act of intimidation against American companies that should have the freedom to choose to build plants in right-to-work states.

If the NLRB prevails, it will only encourage companies to make their investments in foreign nations, moving jobs and economic growth overseas. America will not win the future if Washington penalizes

workers in states that have discovered winning economic strategies.

But in a White House where the cozy relationship between big labor and big government couldn't be any closer, the NLRB's moves are just the Obama administration's latest effort to come to the defense of the union machine. And it's also a direct shot at private industry's freedom to make fundamental business decisions, which has serious consequences for the U.S. economy.

Hederman and Sherk write:

If the Obama Administration succeeds, it will chill business investment. Unions raise business costs and discourage employers from investing and expanding. Studies consistently show that unionized employers create fewer jobs than non-union employers. Forcing businesses to invest in states with bad business climates will cause them to scale back their investments. It might create a few more jobs for union members, but will mean fewer jobs and higher unemployment in the economy overall.

President Obama has remained silent on the issue, with a White House official maintaining that the NLRB's complaint is an "independent agency's enforcement action." Governor Nikki Haley (R-S.C.) isn't satisfied and has a pointed question for the president, as National Review Online reports.

I want to ask him why he is allowing unelected bureaucrats to come in and do the unions' dirty work on the backs of our businesses . . . It's hurting the jobs in South Carolina and every other right-to-work state. He owes us an answer."

The answer to Haley's question can be found in the Obama-big labor alliance. If the Obama NLRB prevails, it will have struck a significant blow against right-to-work states by significantly expanding labor's ability to dictate where companies do business, all while solidifying their base of political power. The losers, unfortunately, will be private industry, job seekers and the U.S. economy.



SBH Looking For New Office Space

There may be an office vacancy glut in Honolulu but you would not know it by the rents large corporate and trust landlords continue to demand. SBH knows this firsthand.

After nearly 18 years in the Hawaii Towne Center Corporate Plaza in Hawaii Kai, owned by Kamehameha Schools/Bishop Estate, SBH is forced to leave after its lease expiration in August of this year.

SBH is looking for new digs. The economy continues to take its toll on SBH members and the organization begun in 1976 by Lex Brodie itself. After nearly 18 years in the Hawaii Corporate Plaza in the Hawaii Towne Center, and rent and CAM increases, SBH, a non-profit, can no longer meet or justify the exorbitant rent and cam costs.

Like many other businesses SBH will be forced to move and further downsize. Our lease expires August 31. Got space? Looking for 500-900 square feet with parking. Call Sam Slom at 808-396-1724.



Mc Donald's national added more than 50,000 new jobs in one day last month, including 1,000 in Hawaii. The new McDonald's of Aina Haina opened April 29 across from Hawaii's first, original McDonald's built in 1968. The original will be demolished. Above: New Aina Haina restaurant blessing and VIP opening.

If Supermarkets Were Run Like Public Schools

By Donald J. Boudreaux

Teachers unions and their political allies argue that market forces can't supply quality education. According to them, only our existing system—politicized and monopolistic—will do the trick. Yet Americans would find that approach ludicrous if applied to other vital goods or services.

Suppose that groceries were supplied in the same way as K-12 education. Residents of each county would pay taxes on their properties. Nearly half of those tax revenues would then be spent by government officials to build and operate supermarkets. Each family would be assigned to a particular supermarket according to its home address. And each family would get its weekly allotment of groceries—"for free"—from its neighborhood public supermarket.

No family would be permitted to get groceries from a public supermarket outside of its district. Fortunately, though, thanks to a Supreme Court decision, families would be free to shop at private supermarkets that charge directly for the groceries they offer. Private-supermarket families, however, would receive no reductions in their property taxes.

Of course, the quality of public supermarkets would play a major role in families' choices about where to live. Real-estate agents and chambers of commerce in prosperous neighborhoods would brag about the high quality of public supermarkets to which families in their cities and towns are assigned.

Being largely protected from consumer choice, almost all public supermarkets would be worse than private ones. In poor counties the quality of public supermarkets would be downright abysmal. Poor people—entitled in principle to excellent supermarkets—would in fact suffer unusually poor supermarket quality.

What if groceries were supplied in the same way as K-12 education?

How could it be otherwise? Public supermarkets would have captive customers and revenues supplied not by customers but by the government. Of course they wouldn't organize themselves efficiently to meet customers' demands.

Responding to these failures, thoughtful souls would call for "supermarket choice" fueled by vouchers or tax credits. Those calls would be vigorously opposed by public-supermarket administrators and workers.

Opponents of supermarket choice would accuse its proponents of demonizing supermarket workers (who, after all, have no control over their customers' poor eating habits at home). Advocates of choice would also be accused of trying to deny ordinary families the food needed for survival. Such choice, it would be alleged, would drain precious resources from public supermarkets whose poor performance testifies to their overwhelming need for more public funds.

As for the handful of radicals who call for total separation of supermarket and state—well, they would be criticized by almost everyone as antisocial devils indifferent to the starvation that would haunt the land if the provision of groceries were governed exclusively by private market forces.

Naomi Schaefer Riley analyzes two competing movies about U.S. education: "Waiting for Superman" and "Race to Nowhere."

In the face of calls for supermarket choice, supermarket-workers unions would use their significant resources for lobbying—in favor of public-supermarkets' monopoly power and against any suggestion that market forces are appropriate for delivering something as

Continued on page 11.

Seller Financing Rules Have Changed

By Walt Harvey (R), East Oahu Realty



Back in the 1980s when mortgage interest rates were around 20% (hard to believe but true), one tool homeowners used to sell their homes was seller financing aka "seller carry back". Typically, buyers would put down 10%-20%, assume the seller's existing mortgage and the seller would "carry" a second mortgage at a rate much lower than the lenders were charging. The seller carry back loan was typically short term, five to seven years with a balloon payment at the end. This would allow the

buyer to build equity in the property while making lower payments then re-finance the property when interest rates came down and pay off the seller. It also gave the sellers a higher yield than they could receive on a bank or savings deposit and defer some gain on the home through the installment sale. Most important, it allowed the homeowner to sell their property in a very tough market.

This tool has been severely restricted. In July 2008 the Secure and Fair Enforcement for Mortgage Licensing Act (S.A.F.E.) was signed into law and in 2010 HUD issued new guidelines. According to HUD, "the SAFE Mortgage Licensing Act is designed to enhance consumer protection and reduce fraud by encouraging states to establish minimum standards for the licensing and registration of state-licensed mortgage loan originators." Unfortunately, home sellers can be classified as mortgage loan originators and may need to be licensed by the state before offering a seller carry back loan plus the terms of the loan can be very strict.

There are two exceptions to the law. The first is if the home is currently the seller's primary residence, and the second is if the seller is financing for a family member. Additionally, real estate brokers and agents can be in violation of the law if they are deemed "negotiating" the terms of a buyer's mortgage. Please visit www.HUD.gov for more information.

Walt & Arla Harvey are real estate brokers with East Oahu Realty. They specialize in residential, commercial and investment real estate and can be reached on their website: www.coastalhawaii.com. Have a real estate question? E-mail them at walt@coastalhawaii.com or call 375-8959.



Buying or selling a home? Rules on mortgages have changed.

Opening Pandora's Box of Hidden Tax Increases

By **Lowell Kalapa**, President, Tax Foundation of Hawaii

As the legislative session wound down May 5, it became very apparent that there was no plan to get state government out of the deep financial hole in which lawmakers found it at the beginning of the session as there were few alternatives left on the table to balance the state budget.

Seniors were successful in beating back the administration's attempt to tax pension income while the fear of adopting a broad across-the-board increase in the general excise tax rate reinforced the House position against such an increase, and the tenuous situation of the visitor industry apparently was enough to convince lawmakers that an increase in alcohol taxes would be fruitless if the visitor market continues to struggle and it certainly wasn't worth the political heat.

So at the end of the session there were but few revenue enhancements left on the table, but what few there were will have a substantial impact on all taxpayers in Hawaii. So while seniors may be beaming with pride that they were able to kill the proposal to tax their pensions, they, along with all other consumers, will end up paying dearly to help balance the state's two-year spending plan.

By far the largest and the most misunderstood increase will come in the form of the suspension of several general excise tax provisions mistakenly called exemptions. Almost all of these so-called "exemptions," some of which were enacted over a half century ago, recognize the unique structure of the general excise tax and the fact that it may be imposed a number of times on the same transaction as goods or services move through the production chain. Then again, there is the tax as it is imposed at the front end of the chain as goods arrive in Hawaii.

While the measure addresses some of the pyramiding of stevedoring activities, such as services between related companies, nearly all of the goods coming over the state's docks or through the state's airports had been previously exempt from the 4% tax on the loading and unloading of those goods in recognition that the cost of the tax would be imbedded in those goods.

They will now be taxed at the full 4% rate. This is one of the "special interests" that lawmakers have singled out to be suspended. That additional cost will work its way into the bag of rice or loaf of bread families need as food to put on the table. For manufacturers in Hawaii, that cost will be added to every bottle of jams and jellies or box of cookies shipped out of the state, putting Hawaii products at an



even greater price disadvantage.

For Neighbor Island farmers having to ship their products to sell to the larger population in Honolulu, the cost of their products will also rise. It will also put local providers of products sold to interstate carriers like, cruise ships and airlines, at a price disadvantage as the 4% tax will be imposed on those sales even though the consumption of those goods will be outside the state.

Then there are those exemptions that are being suspended which challenge good tax policy, if not good common sense, and that is the suspension that will allow the general excise tax to be imposed on amounts that are taxed by other chapters of the law. This includes taxing the amount represented by liquor taxes on alcoholic beverages and on tobacco and cigarettes or on the fuel tax imposed by the state or county government. So you thought the price at the pump was high, just wait until the 4% tax is slapped on the seventeen cents of state fuel taxes.

The proposal also suspends the exemption of sales of products such as liquor and tobacco and other tangible personal property to the federal government and its instrumentalities, like credit unions. Sales to the federal government are preempted by superior law, in this case federal law, as state and localities cannot tax the federal government. Lawmakers may think that this a state exemption so that they can do as they please, but wait until the first business selling tangible personal property to the federal government tries to collect the general excise tax from the federal government. Another is the exemption for telecommunication home service providers where federal law specifically prohibits state and local governments from charging for those roaming charges.

While these latter situations may be grounds for litigation, other "exemptions" will merely add to the cost of living and doing business in Hawaii for the next two years, and they just may send the state's economy into a tailspin.

The Tax Foundation of Hawaii is a private, nonprofit educational organization dedicated to informing the public, more specifically the taxpayer, which means all of us, about the finances of our state and local governments in Hawaii. For more information go to <http://www.tfhawaii.org>.

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Senate Minority Caucus Offers ‘No Alternative’ State Budget

The Hawaii State Senate Minority “No Alternative” budget was created by taking Governor Linda Lingle’s projected budget which served as the base from which Governor Neil Abercrombie, the House Finance committee, and the Senate Ways and Means committee used to create their respective draft budgets. This “No Alternative” budget was produced through careful examination of Governor Abercrombie’s Executive Supplemental Budget worksheets, the budget worksheets available from the House Finance committee for House Bill No. 200 H.D.1, and previous Budget Acts from two prior bienniums.

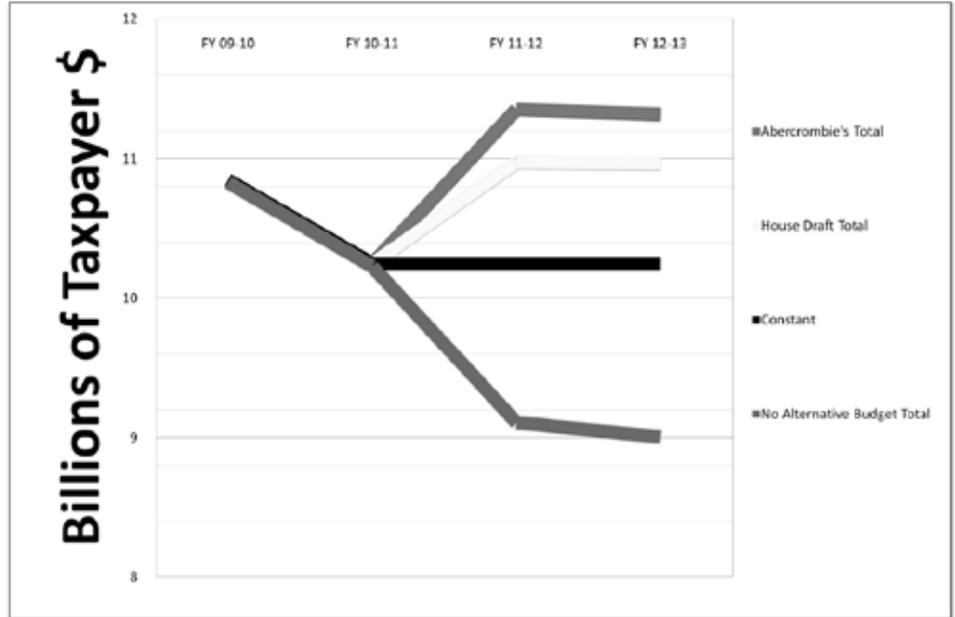
The intent of this budget is to explore methods of relieving the State from its current spending shortfalls, defining a plan that will permanently address the serious issue of wasteful government over-expenditures, and allow an opportunity for growth of the private sector.

Unlike current budgeting options, this budget does not use tricks of delaying the payment, repayment, or rightful return of certain moneys. It does not require lawmakers to raid special funds, even if the intent is to repay the balance in a few years. It does not require any new taxes, nor does it require lawmakers to increase current tax rates. It does not introduce new fees for which the revenue will not be made readily transparent to the public.

Instead, the “No Alternative” budget aims to create transparency within government and foster a culture of efficient government spending while promoting an understandable level of service.

This budget was created from the ground up. The structure was provided by our current budget system. It began its life with only the core programs. Core programs are defined as the bare essentials needed to maintain a government that supports the average taxpayer. While many may not agree as to what the core programs are, research evidence supports a list of services that would continue to exist in the event of a major county and/or national crisis.

The “No Alternative” budget is intended to be a sustainable plan and therefore requires additional non-core, high-priority, as well as a significant amount of non-core, low-priority items to be included. This budget only reflects a version of the operating budget for the State and does not include capital improvement appropriations. The main focus of the “No Alternative” budget is on general



Ultimately, the “No Alternative” budget reflects the voice of the people, and mimics spending and savings trends of the average household in Hawaii’s tight economy.

fund spending, cuts, and savings.

At the time the “No Alternative” budget was drafted, the Senate draft of HB 200 was not available for examination online. Therefore, the data does not currently compare to the Senate Draft. However, the numbers, as presented by the WAM Chair, differ only slightly with the House Finance’s draft. The SD1 version of HB 200 has since been made available to the public at the state Legislature’s website.

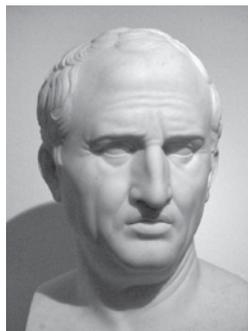
The “No Alternative” budget considers conservative measures, which may be agreeable to many. There are additional places that could be examined to find savings; however, it would be difficult based on the public information that is available. Therefore the “No Alternative” budget represents a fair deal that one could create with-

out having access to any non public information.

Ultimately, the “No Alternative” budget reflects the voice of the people, and mimics spending and savings trends of the average household in Hawaii’s tight economy. Since the “No Alternative” budget is projected out for two years, it is likely that it will experience a significant decrease in overall deficit with the possibility of a surplus depending on the nature of the economy and the pace of its recovery.

A comprehensive report in progress, will be posted to our Senate Minority Blog website at senateminority.wordpress.com.

This report was prepared by the Hawaii State Senate Minority Office under the direction of State Senator Sam Slom.



Great Quotations: A Balanced Budget

“The budget should be balanced, the Treasury should be refilled, public debt should be reduced, the arrogance of officialdom should be tempered and controlled, and the assistance to foreign lands should be curtailed lest Rome become bankrupt. People must again learn to work, instead of living on public assistance.”

Marcus Tullius Cicero — 55 BC

Supermarkets vs. Schools

Continued from page 8.

essential as groceries. Some indignant public-supermarket defenders would even rail against the insensitivity of referring to grocery shoppers as "customers," on the grounds that the relationship between the public servants who supply life-giving groceries and the citizens who need those groceries is not so crass as to be discussed in terms of commerce.

Recognizing that the erosion of their monopoly would stop the gravy train that pays their members handsome salaries without requiring them to satisfy paying customers, unions would ensure that any grass-roots effort to introduce supermarket choice meets fierce political opposition.

In reality, of course, groceries and many other staples of daily life are distributed with extraordinary effectiveness by competitive markets responding to consumer choice. The same could be true of education—the unions' self-serving protestations notwithstanding.

Mr. Boudreaux is professor of economics at George Mason University and a senior fellow at the Mercatus Center.



SBH SUNRISE

Thursday, May 26, 2011 • 7:00 – 8:30 a.m.
Pineapple Room, Ala Moana • Breakfast / Free Parking

Speaker: **Bob Sigall**, *The Companies We Keep*, Vol. 1, 2 & 3
"Marketing Your Business"

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Advanced Paid Reservations Required by May 24.

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Honolulu, HI 96825

*The charge is \$35 for non-members, and at the door, provided space is available.

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Attached is my check for \$_____ (regular annual membership dues are \$200; \$350 for 2 years). Annual membership dues may be tax deductible to your organization under IRS Code Section 501(c) (6). Please check with your tax advisor. Billing is annual on the anniversary of my last payment. Ten dollars of my annual membership is allocated for a subscription to the monthly *Small Business News*. I am applying for membership and understand SBH does not sign up anyone for medical or benefits only; I agree to actively support the goals of SBH and actively participate in SBH activities. I certify that all information on this form is current and accurate.

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Taxed Enough Already (TEA) Party 2011

Taxpayers from all around the country as well as in Honolulu and elsewhere in the state rallied on April 15 against more and higher taxes and for freedom and liberty. The Hawaii Tax Day TEA Party for Honolulu was held at the Hawaii State Capitol. About 200 people showed up for the afternoon rally that saw several people speak on the taxation, the cost of living and more.

The 2011 Hawaii State Legislature proposed several tax increase bills during the recently completed legislative session, several of which were defeated. See stories on pages 3 and 9.

