

## **Act 174 (SLH 2014)**

### **House Bill 1671**

- Conference Committee Report No. 145-14, HB 1671, HD1, SD1, CD1 (April 25, 2014)
- Standing Committee Report No. 3411, (Committee on Ways and Means), HB 1671, HD1, SD1 (April 4, 2014)
- Standing Committee Report No. 3063, (Committees on Tourism and Public Safety, Intergovernmental and Military Affairs), HB 1671, HD1, SD1 (March 21, 2014)
- Standing Committee Report No. 764-14, (Committee on Finance), HB 1671, HD1 (February 28, 2014)
- Standing Committee Report No. 160-14, (Committee on Tourism), HB 1671, HD1 (February 5, 2014)

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# A BILL FOR AN ACT

RELATING TO TRANSIENT ACCOMMODATIONS TAX.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

- 1 SECTION 1. Section 237D-6.5, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:  
3 "(b) Revenues collected under this chapter shall be  
4 distributed as follows, with the excess revenues to be deposited  
5 into the general fund:  
6 (1) \$33,000,000 shall be allocated to the convention  
7 center enterprise special fund established under  
8 section 201B-8;  
9 (2) \$82,000,000 shall be allocated to the tourism special  
10 fund established under section 201B-11; provided that:  
11 (A) Beginning on July 1, 2012, and ending on June 30,  
12 2015, \$2,000,000 shall be expended from the  
13 tourism special fund for development and  
14 implementation of initiatives to take advantage  
15 of expanded visa programs and increased travel  
16 opportunities for international visitors to  
17 Hawaii;  
18 (B) Of the \$82,000,000 allocated:



1 (i) \$1,000,000 shall be allocated for the  
2 operation of a Hawaiian center and the  
3 museum of Hawaiian music and dance at the  
4 Hawaii convention center; and  
5 (ii) 0.5 per cent of the \$82,000,000 shall be  
6 transferred to a sub-account in the tourism  
7 special fund to provide funding for a safety  
8 and security budget, in accordance with the  
9 Hawaii tourism strategic plan 2005-2015; and  
10 (C) Of the revenues remaining in the tourism special  
11 fund after revenues have been deposited as  
12 provided in this paragraph and except for any sum  
13 authorized by the legislature for expenditure  
14 from revenues subject to this paragraph,  
15 beginning July 1, 2007, funds shall be deposited  
16 into the tourism emergency trust fund,  
17 established in section 201B-10, in a manner  
18 sufficient to maintain a fund balance of  
19 \$5,000,000 in the tourism emergency trust fund;  
20 (3) [~~\$93,000,000~~] \$103,000,000 for fiscal year 2014-2015,  
21 \$103,000,000 for fiscal year 2015-2016, and  
22 \$93,000,000 for each fiscal year thereafter shall be



1 allocated as follows: Kauai county shall receive 14.5  
2 per cent, Hawaii county shall receive 18.6 per cent,  
3 city and county of Honolulu shall receive 44.1 per  
4 cent, and Maui county shall receive 22.8 per cent;  
5 provided that commencing with fiscal year 2018-2019, a  
6 sum that represents the difference between a county  
7 public employer's annual required contribution for the  
8 separate trust fund established under section 87A-42  
9 and the amount of the county public employer's  
10 contributions into that trust fund shall be retained  
11 by the state director of finance and deposited to the  
12 credit of the county public employer's annual required  
13 contribution into that trust fund in each fiscal year,  
14 as provided in section 87A-42, if the respective  
15 county fails to remit the total amount of the county's  
16 required annual contributions, as required under  
17 section 87A-43; and

- 18 (4) Of the excess revenues deposited into the general fund  
19 pursuant to this subsection, \$3,000,000 shall be  
20 allocated subject to the mutual agreement of the board  
21 of land and natural resources and the board of  
22 directors of the Hawaii tourism authority in



1           accordance with the Hawaii tourism authority strategic  
2           plan for:

3           (A) The protection, preservation, and enhancement of  
4           natural resources important to the visitor  
5           industry;

6           (B) Planning, construction, and repair of facilities;  
7           and

8           (C) Operation and maintenance costs of public lands  
9           connected with enhancing the visitor experience.

10           All transient accommodations taxes shall be paid into the  
11           state treasury each month within ten days after collection and  
12           shall be kept by the state director of finance in special  
13           accounts for distribution as provided in this subsection.

14           As used in this subsection, "fiscal year" means the twelve-  
15           month period beginning on July 1 of a calendar year and ending  
16           on June 30 of the following calendar year."

17           SECTION 2. (a) There is established a state-county  
18           functions working group that shall:

19           (1) Evaluate the division of duties and responsibilities  
20           between the state and counties relating to the  
21           provision of public services; and



1           (2) Submit a recommendation to the legislature on the  
2           appropriate allocation of the transient accommodations  
3           tax revenues between the State and counties that  
4           properly reflects the division of duties and  
5           responsibilities relating to the provision of public  
6           services.

7           (b) The working group shall be composed of thirteen  
8 members appointed, without regard to section 26-34, Hawaii  
9 Revised Statutes, as follows:

- 10           (1) Four members, each of whom shall be appointed by a  
11           different county mayor;
- 12           (2) Four members appointed by the governor;
- 13           (3) Two members appointed by the president of the senate;
- 14           (4) Two members appointed by the speaker of the house of  
15           representatives; and
- 16           (5) One member appointed by the chief justice, who shall  
17           serve as the chair of the working group.

18 The members appointed under paragraphs (3), (4), and (5) shall  
19 not be currently employed by the State or any county.

20           (c) The working group shall be administratively placed in  
21 the office of the auditor. The auditor shall initiate the  
22 organization of and provide staff support for the working group.



1 (d) Members of the working group shall serve without  
2 compensation, but shall be reimbursed for necessary expenses  
3 incurred during the performance of their duties. The  
4 reimbursements shall be made by the auditor, who shall submit a  
5 request to the legislature for an appropriation equal to the  
6 reimbursements made and expected to be made. The auditor shall  
7 submit the requests for inclusion in the legislative budget acts  
8 of 2015 and 2016.

9 (e) The working group shall submit an interim report to  
10 the legislature, governor, and each county mayor and council not  
11 later than twenty days prior to the convening of the regular  
12 session of 2015.

13 The working group shall submit a final report with its  
14 findings and recommendations to the same parties not later than  
15 twenty days prior to the convening of the regular session of  
16 2016.

17 (f) The working group shall cease to exist upon the  
18 adjournment sine die of the regular session of 2016.

19 SECTION 3. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.

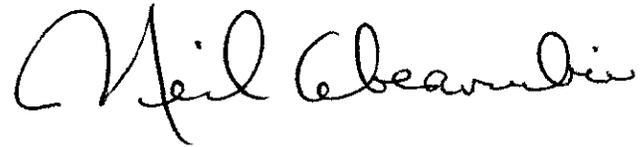
21 SECTION 4. This Act shall take effect on July 1, 2014.



H.B. NO. 1671  
H.D. 1  
S.D. 1  
C.D. 1

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APPROVED this 1 day of JUL , 2014

A handwritten signature in cursive script that reads "Neil Abernethy".

GOVERNOR OF THE STATE OF HAWAII

Honolulu, Hawaii

April 25, 2014

RE: H.B. No. 1671  
H.D. 1  
S.D. 1  
C.D. 1

Honorable Joseph M. Souki  
Speaker, House of Representatives  
Twenty-Seventh State Legislature  
Regular Session of 2014  
State of Hawaii

Honorable Donna Mercado Kim  
President of the Senate  
Twenty-Seventh State Legislature  
Regular Session of 2014  
State of Hawaii

Sir and Madam:

Your Committee on Conference on the disagreeing vote of the House of Representatives to the amendments proposed by the Senate in H.B. No. 1671, H.D. 1, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO TRANSIENT ACCOMMODATIONS TAX,"

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to change the amount of transient accommodations tax revenues allocated to the counties from \$93,000,000 to an unspecified percentage of revenues collected.

Your Committee on Conference finds that the Legislature, in enacting Act 161, Session Laws of Hawaii 2013, established a cap of \$93,000,000 on the amount of transient accommodations tax revenues allocated to the counties. Your Committee on Conference believes that increasing the maximum amount of transient accommodations tax revenues allocated to the counties will allow the counties to better provide for public safety, parks, road maintenance, and visitor-related services.

HB1671 CD1 CCR LRB 14-2554.doc



However, your Committee on Conference believes that a study to determine the appropriate division of duties and responsibilities to provide public services should be conducted before permanently establishing the transient accommodations tax revenue allocations between the State and counties. In light of this belief, your Committee on Conference has amended this measure by:

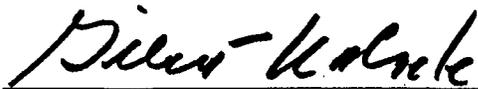
- (1) Changing the amount of transient accommodations tax revenues to be allocated to the counties from an unspecified percentage to \$103,000,000 for fiscal year 2014-2015, \$103,000,000 for fiscal year 2015-2016, and \$93,000,000 for each fiscal year thereafter;
- (2) Establishing a working group to evaluate the division of duties and responsibilities between the State and counties relating to the provision of public services and recommend the appropriate amount of transient accommodations tax revenues to be allocated to the counties; and
- (3) Changing the effective date to July 1, 2014.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 1671, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1671, H.D. 1, S.D. 1, C.D. 1.

Respectfully submitted on behalf  
of the managers:

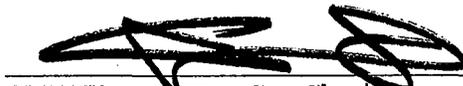
ON THE PART OF THE SENATE

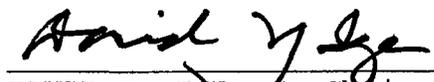
ON THE PART OF THE HOUSE

  
GILBERT KAHELE, Chair

  
TOM BROWER, Co-Chair

  
WILL ESPERO, Co-Chair

  
SYLVIA LUKE, Co-Chair

  
DAVID Y. IGE, Co-Chair





STAND. COM. REP. NO. **3411**

Honolulu, Hawaii  
APR 04 2014

RE: H.B. No. 1671  
H.D. 1  
S.D. 1

Honorable Donna Mercado Kim  
President of the Senate  
Twenty-Seventh State Legislature  
Regular Session of 2014  
State of Hawaii

Madam:

Your Committee on Ways and Means, to which was referred H.B. No. 1671, H.D. 1, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO TRANSIENT ACCOMMODATIONS TAX,"  
begs leave to report as follows:

The purpose and intent of this measure is to change the amount of transient accommodations tax revenues allocated to the counties from \$93,000,000 to an unspecified percentage of revenues collected.

Your Committee received written comments in support of this measure from the City and County of Honolulu Office of the Mayor, the County of Hawaii Office of the Mayor, three County of Maui Council Members, two County of Hawaii Council Members, four County of Kauai Council Members, the Maui County Council, the Hawaii Council of Mayors, the Hawaii County Council, the Kauai County Council Chair, the Kauai County Council Vice Chair, two City and County of Honolulu City Council Members, the Paia Youth and Cultural Center, ILWU Local 142, the Hawaii Association of Vacation Rental Managers, and five individuals. Written comments in opposition were received from the Department of Budget and Finance. The Department of Taxation, Hawaii Lodging and Tourism Association, Maui Hotel and Lodging Association, and Tax Foundation of Hawaii submitted written comments.

Your Committee finds that this measure may increase the allocation of revenues to the counties that may be used to provide

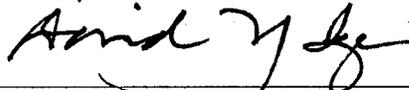
HB1671 SD1 SSCR LRB 14-2383.doc



for public safety, parks, road maintenance, and visitor-related services.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1671, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Respectfully submitted on  
behalf of the members of the  
Committee on Ways and Means,



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DAVID Y. IGE, Chair





STAND. COM. REP. NO. **3063**

Honolulu, Hawaii

MAR 21 2014

RE: H.B. No. 1671  
H.D. 1  
S.D. 1

Honorable Donna Mercado Kim  
President of the Senate  
Twenty-Seventh State Legislature  
Regular Session of 2014  
State of Hawaii

Madam:

Your Committees on Tourism and Public Safety,  
Intergovernmental and Military Affairs, to which was referred H.B.  
No. 1671, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO TRANSIENT ACCOMMODATIONS TAX,"

beg leave to report as follows:

The purpose and intent of this measure is to remove the  
current cap of \$93,000,000 on the transient accommodations tax  
revenues to be distributed to the counties and instead distribute  
44.8 percent of transient accommodation tax revenues collected to  
the counties.

Your Committees received testimony in support of this measure  
from the Department of Finance, County of Kauai; Office of the  
Mayor, County of Hawaii; Office of the Mayor, County of Maui;  
Office of the Mayor, City and County of Honolulu; Hawaii County  
Council; County Council, County of Hawaii; Hawaii County Council,  
District 9; County Council, County of Maui; County Services  
Division, County of Kauai; City Council, City and County of  
Honolulu; Hawaii Council of Mayors; Poipu Beach Resort  
Association; ILWU Local 142; Hawaii Association of Vacation Rental  
Managers; and nine individuals. Your Committees received  
testimony in opposition to this measure from the Department of  
Budget and Finance and Department of Taxation. Your Committees  
received comments on this measure from the Tax Foundation of  
Hawaii.



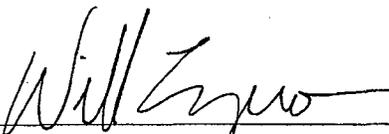
Your Committees recognize the importance of county facilities and services to support and enhance the tourism industry. Your Committees further find that the counties maintain roads and parks and provide the law enforcement officers and first responders who serve residents and visitors. This measure ensures that tax revenues derived from guest visits to the different islands of Hawaii will help offset the costs of providing services that guests use while visiting the islands.

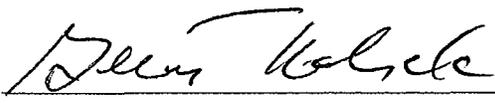
Your Committees have amended this measure by inserting a blank percentage of the transient accommodations tax revenues to be allocated to the counties.

Your Committees received oral testimony from county officials and individual county council members characterizing the intent of the Legislature as placing a "temporary" cap on the counties' share of transient accommodations tax revenues in passing Act 61, Session Laws of Hawaii 2009, and Act 103, Session Laws of Hawaii 2011. Your Committees also received written testimony characterizing the cap as having been "imposed" on the counties. Your Committees note, however, that in placing the \$93,000,000 cap into effect in 2011, the State effectively guaranteed the counties a historically high share of revenues.

As affirmed by the records of votes of the members of your Committees on Tourism and Public Safety, Intergovernmental and Military Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1671, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1671, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Respectfully submitted on  
behalf of the members of the  
Committees on Tourism and  
Public Safety,  
Intergovernmental and Military  
Affairs,

  
\_\_\_\_\_  
WILL ESPERO, Chair

  
\_\_\_\_\_  
GILBERT KAHELE, Chair







Honolulu, Hawaii  
February 28, 2014

RE: H.B. No. 1671  
H.D. 1

Honorable Joseph M. Souki  
Speaker, House of Representatives  
Twenty-Seventh State Legislature  
Regular Session of 2014  
State of Hawaii

Sir:

Your Committee on Finance, to which was referred H.B. No. 1671, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO TRANSIENT ACCOMMODATIONS TAX,"

begs leave to report as follows:

The purpose of this measure is to assist the counties financially by removing the \$93,000,000 cap on the Transient Accommodations Tax (TAT) revenues currently allocated to the counties and instead allocating TAT revenues to the counties according to a percentage of the total TAT revenues collected.

The Mayor of the City and County of Honolulu; Mayor of the County of Maui; Mayor of the County of Hawaii; Chair of Hawaii County Council; Chair of Kauai County Council; Chair of Maui County Council; Chair of Honolulu City Council; Chair of the Budget and Finance Committee of Maui County Council; Chair of the Human Services and Social Services Committee of Hawaii County Council and Councilmember of Hawaii County Council, District 8; Vice Chair of Kauai County Council; Vice Chair of Maui County Council; Councilmember of the City and County of Honolulu, District 4; Councilmember of Kauai County Council, District At Large; Councilmember of Hawaii County Council, District 4; Councilmember of Maui County Council, South Maui; Councilmember of Maui County Council, Molokai; Director of Finance of the County of Kauai; Outrigger Hotels Hawaii; and ILWU Local 142 supported this measure. The Department of Budget and Finance, Tax Foundation of



Hawaii, Hawaii Tourism Authority, and Hawai'i Lodging & Tourism Association commented on this measure.

Your Committee notes that the Transient Accommodations Tax has been the subject of considerable discussion and debate among policymakers regarding its effect as a significant revenue generator and funding source in the State. The economic downturn and slow periods of economic growth greatly lowered the amount of Transient Accommodations Tax and other tax revenues generated by the State, thus affecting the provision of government services to the community. The Legislature has been hard-pressed to make tough decisions to balance the State Budget while ensuring that health, education, pension, and other state services are met.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1671, H.D. 1, and recommends that it pass Third Reading.

Respectfully submitted on  
behalf of the members of the  
Committee on Finance,



SYLVIA LUKE, Chair





Honolulu, Hawaii  
FEBRUARY 5, 2014

RE: H.B. No. 1671  
H.D. 1

Honorable Joseph M. Souki  
Speaker, House of Representatives  
Twenty-Seventh State Legislature  
Regular Session of 2014  
State of Hawaii

Sir:

Your Committee on Tourism, to which was referred H.B. No. 1671 entitled:

"A BILL FOR AN ACT RELATING TO TRANSIENT ACCOMMODATIONS TAX,"

begs leave to report as follows:

The purpose of this measure is to assist the counties financially so they can better support tourism and tourism-related services by removing the current dollar amount cap on transient accommodations tax revenues to be distributed to the counties and establishing the distribution of these revenues as a percentage of transient accommodations tax collected.

The Hawaii Council of Mayors, Mayor of the City and County of Honolulu, Mayor of the County of Hawaii, Mayor of the County of Maui, the chair of the Honolulu City Council, the chair and two councilmembers of the Kauai County Council, the chair and three councilmembers of the Maui County Council, Director of Finance of the County of Kauai, Outrigger Hotels Hawaii, and two concerned individuals supported this measure. The Department of Budget and Finance, Hawaii Tourism Authority, and the Tax Foundation of Hawaii offered comments on this measure.

Your Committee has amended this measure by changing its effective date to July 1, 2050, to promote further discussion.



Your Committee understands that much of the cost associated with tourism are carried by the counties. This includes the ever-increasing costs of providing county services to these visitors. Your Committee is also aware that the counties have faced financial challenges in providing these county services since the cap on transient accommodations tax revenues distributed to the counties was put in place in 2011.

Accordingly, your Committee respectfully requests the Committee on Finance to thoroughly examine the transient accommodations tax allocations to the counties and evaluate the impact of the current transient accommodations tax rates on the gross rental or gross rental proceeds derived from furnishing transient accommodations.

As affirmed by the record of votes of the members of your Committee on Tourism that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1671, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1671, H.D. 1, and be referred to the Committee on Finance.

Respectfully submitted on  
behalf of the members of the  
Committee on Tourism,



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TOM BROWER, Chair



State of Hawaii  
House of Representatives  
The Twenty-seventh Legislature

HSCR 160-14

**Record of Votes of the Committee on Tourism**

Bill/Resolution No.: <b>HB 1671</b>	Committee Referral: <b>TOU, FIN</b>	Date: <b>02-03-14</b>		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
TOU Members	Ayes	Ayes (WR)	Nays	Excused
1. BROWER, Tom (C)	✓			
2. CACHOLA, Romy M. (VC)	✓			
3. AWANA, Karen	✓			
4. CHOY, Isaac W.	✓			
5. OHNO, Takashi	-	✓		
6. ONISHI, Richard H.K.				✓
7. TAKAI, K. Mark				✓
8. TOKIOKA, James Kunane	✓			
9. TSUJI, Clift	✓			
10. WARD, Gene		✓		
<b>TOTAL (10)</b>	<b>6</b>	<b>2</b>		<b>2</b>
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <div style="text-align: center; font-size: small;">committee acronym(s)</div>				
Vice Chair's or designee's signature:				
Distribution: Original (White) – Committee    Duplicate (Yellow) – Chief Clerk's Office    Duplicate (Pink) – HMSO				

## **Act 161 (SLH 2013)**

### **Senate Bill 1194**

- Conference Committee Report No. 146,  
SB 1194, SD2, HD1, CD1 (April 26, 2013)
- Standing Committee Report No. 1469,  
(Committee on Finance), SB 1194, SD2, HD1  
(April 5, 2013)
- Standing Committee Report No. 703,  
(Committee on Ways and Means), SB 1194, SD2  
(March 1, 2013)
- Standing Committee Report No. 150,  
(Committee on Tourism), SB 1194, SD1  
(February 8, 2013)

# **SESSION LAWS OF HAWAII**

**TWENTY-SEVENTH STATE LEGISLATURE**

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**REGULAR SESSION OF 2013**

---

A Bill for an Act Relating to Transient Accommodations Tax.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 237D-2, Hawaii Revised Statutes, is amended to read as follows:

~~“§237D-2 Imposition and rates. (a) There is levied and shall be assessed and collected each month a tax of:~~

- ~~(1) Five per cent for the period beginning on January 1, 1987, to June 30, 1994;~~
- ~~(2) Six per cent for the period beginning on July 1, 1994, to December 31, 1998; [and]~~
- ~~(3) 7.25 per cent for the period beginning on January 1, 1999, [and thereafter;] to June 30, 2009;~~
- ~~(4) 8.25 per cent for the period beginning on July 1, 2009, to June 30, 2010; and~~
- ~~(5) 9.25 per cent for the period beginning on July 1, 2010, and thereafter;~~

~~on the gross rental or gross rental proceeds derived from furnishing transient accommodations.~~

~~[(b) There is levied and shall be assessed and collected each month an additional:~~

- ~~(1) One per cent for the period beginning July 1, 2009, to June 30, 2010; and~~
- ~~(2) Two per cent for the period beginning July 1, 2010, to June 30, 2015;~~

~~on the gross rental or gross rental proceeds derived from furnishing transient accommodations. The rate levied and assessed under this subsection shall be additional to the rate levied and assessed under subsection (a)(3).~~

~~(e) There is levied and shall be assessed and collected each month a daily tax of \$10 for every transient accommodation that is furnished on a complimentary or gratuitous basis, or otherwise at no charge, including transient accommodations furnished as part of a package.~~

~~[(d)] (b) Every operator shall pay to the State the tax imposed by [subsections] subsection (a) [ , (b), and (c), as applicable], as provided in this chapter.~~

~~[(e)] (c) There is levied and shall be assessed and collected each month, on the occupant of a resort time share vacation unit, a transient accommodations tax of 7.25 per cent on the fair market rental value.~~

~~[(f)] (d) Every plan manager shall be liable for and pay to the State the transient accommodations tax imposed by subsection [(e)] (c) as provided in this chapter. Every resort time share vacation plan shall be represented by a plan manager who shall be subject to this chapter.”~~

SECTION 2. Section 237D-6.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

~~“(b) Revenues collected under this chapter [ , except for revenues collected under section 237D-2(b), ] shall be distributed as follows, with the excess revenues to be deposited into the general fund:~~

- ~~(1) [17.3 per cent of the revenues collected under this chapter] \$33,000,000 shall be [deposited into] allocated to the convention center enterprise special fund established under section 201B-8; [provided that beginning January 1, 2002, if the amount of revenue collected under this paragraph exceeds \$33,000,000 in any fiscal~~

- year, revenues collected in excess of \$33,000,000 shall be deposited into the general fund;]
- (2) ~~[34.2 per cent of the revenues collected under this chapter]~~ \$82,000,000 shall be [deposited into] allocated to the tourism special fund established under section 201B-11 [for tourism promotion and visitor industry research; provided that for any period beginning on July 1, 2012, and ending on June 30, 2015, no more than \$71,000,000 per fiscal year shall be deposited into the tourism special fund established under section 201B-11; provided further]; provided that [beginning]:
- (A) ~~Beginning on July 1, 2012, and ending on June 30, 2015, \$2,000,000 shall be expended from the tourism special fund for development and implementation of initiatives to take advantage of expanded visa programs and increased travel opportunities for international visitors to Hawaii; [and provided further that beginning on July 1, 2002, of the first \$1,000,000 in revenues deposited:~~
- (A) ~~Ninety per cent shall be deposited into the state parks special fund established in section 184-3.4; and~~
- (B) ~~Ten per cent shall be deposited into the special land and development fund established in section 171-19 for the Hawaii statewide trail and access program;~~
- ~~provided that of]~~
- (B) Of the [34.2 per cent,] \$82,000,000 allocated:
- (i) \$1,000,000 shall be allocated for the operation of a Hawaiian center and the museum of Hawaiian music and dance at the Hawaii convention center; and
- (ii) 0.5 per cent of the \$82,000,000 shall be transferred to a sub-account in the tourism special fund to provide funding for a safety and security budget, in accordance with the Hawaii tourism strategic plan 2005-2015; [provided further that of] and
- (C) Of the revenues remaining in the tourism special fund after revenues have been deposited as provided in this paragraph and except for any sum authorized by the legislature for expenditure from revenues subject to this paragraph, beginning July 1, 2007, funds shall be deposited into the tourism emergency trust fund, established in section 201B-10, in a manner sufficient to maintain a fund balance of \$5,000,000 in the tourism emergency trust fund; [and]
- (3) ~~[44.8 per cent of the revenues collected under this chapter]~~ \$93,000,000 shall be [transferred] allocated as follows: Kauai county shall receive 14.5 per cent, Hawaii county shall receive 18.6 per cent, city and county of Honolulu shall receive 44.1 per cent, and Maui county shall receive 22.8 per cent; [provided that for any period beginning on July 1, 2011, and ending on June 30, 2015, the total amount transferred to the counties shall not exceed \$93,000,000 per fiscal year.] and
- (4) Of the excess revenues deposited into the general fund pursuant to this subsection, \$3,000,000 shall be allocated subject to the mutual agreement of the board of land and natural resources and the board of directors of the Hawaii tourism authority in accordance with the Hawaii tourism authority strategic plan for:

- (A) The protection, preservation, and enhancement of natural resources important to the visitor industry;
- (B) Planning, construction, and repair of facilities; and
- (C) Operation and maintenance costs of public lands connected with enhancing the visitor experience.

~~[Revenues collected under section 237D-2(b) shall be deposited into the general fund.]~~ All transient accommodations taxes shall be paid into the state treasury each month within ten days after collection and shall be kept by the state director of finance in special accounts for distribution as provided in this subsection.

As used in this subsection, "fiscal year" means the twelve-month period beginning on July 1 of a calendar year and ending on June 30 of the following calendar year."

SECTION 3. Act 61, Session Laws of Hawaii 2009, is amended by amending section 4 to read as follows:

~~"SECTION 4. This Act shall take effect on July 1, 2009[, and shall be repealed on June 30, 2015; provided that sections 237D-2 and 237D-6.5, Hawaii Revised Statutes, shall be reenacted in the form in which they read on June 30, 2009]."~~

SECTION 4. Act 103, Session Laws of Hawaii 2011, is amended by amending section 4 to read as follows:

~~"SECTION 4. This Act shall take effect on July 1, 2011[, provided that section 2 of this Act shall be repealed on June 30, 2015, and section 237D-6.5, Hawaii Revised Statutes, shall be reenacted in the form in which it read on June 30, 2009, pursuant to Act 61, Session Laws of Hawaii 2009]."~~

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect on July 1, 2013.

(Approved June 21, 2013.)

Note

- 1. Should be underscored.

ACT 162

S.B. NO. 1196

A Bill for an Act Relating to Cash Economy Enforcement.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 231-96, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

~~"(a) It shall be unlawful [to conduct more than ten taxable business transactions per day] for any person doing business under chapter 237, other than casual sales, to conduct any transaction in cash and fail to:~~

- (1) Offer a receipt or other record of the transaction; and
- (2) Maintain a contemporaneously generated record of all business transactions conducted each day,

whether handwritten or generated by a manually operated or electronic cash register. Each day a person is in violation of this section shall be treated as a separate violation."

Honolulu, Hawaii

APR 26 2013

RE: S.B. No. 1194  
S.D. 2  
H.D. 1  
C.D. 1

Honorable Donna Mercado Kim  
President of the Senate  
Twenty-Seventh State Legislature  
Regular Session of 2013  
State of Hawaii

Honorable Joseph M. Souki  
Speaker, House of Representatives  
Twenty-Seventh State Legislature  
Regular Session of 2013  
State of Hawaii

Madam and Sir:

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House of Representatives in S.B. No. 1194, S.D. 2, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO TRANSIENT ACCOMMODATIONS TAX,"

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to adjust the transient accommodations tax rate and the disposition of the transient accommodations tax revenues. Among other things, this measure:

- (1) Specifies new transient accommodations tax rates as follows:
  - (A) 8.25 percent for the period beginning on July 1, 2009, to June 30, 2010;
  - (B) 9.25 percent for the period beginning on July 1, 2010, to June 30, 2013; and



- (C) 7.25 percent for the period beginning on July 1, 2013, and thereafter;
- (2) Repeals the additional transient accommodations tax imposed by Act 61, Session Laws of Hawaii 2009;
- (3) Repeals the daily transient accommodations tax for complimentary accommodations; and
- (4) Makes permanent the caps on the transient accommodations tax revenue distributions to the tourism special fund and the counties.

Your Committee on Conference finds that allowing the transient accommodations tax rate to fall to 7.25 percent beginning on July 1, 2013, would deprive the general fund of needed tax revenues. According to the Department of Budget and Finance, retaining a 9.25 percent tax rate is a key component to ensuring that the State's general fund financial plan remains balanced beyond the fiscal biennium 2013-2015. Your Committee on Conference further finds that the State requires a consistent amount of funds to effectively market itself in a competitive tourist industry, to maintain tourist attractions, and to enhance the visitor experience.

Accordingly, your Committee on Conference has amended this measure by:

- (1) Making permanent the 9.25 percent tax on the gross rental or gross rental proceeds derived from furnishing transient accommodations;
- (2) Allocating \$33,000,000, rather than 17.3 percent, of the transient accommodations tax revenue to the convention center enterprise special fund and repealing the language that required revenues collected in excess of \$33,000,000 to be deposited into the general fund;
- (3) Allocating \$82,000,000, rather than 34.2 percent, of the transient accommodations tax revenue to the tourism special fund, repealing the language specifying that the revenues be for tourism promotion and visitor industry research, and repealing the language that placed a \$71,000,000 per fiscal year cap on revenues to be deposited into the tourism special fund until June 30, 2015;



- (4) Repealing the \$1,000,000 allocation to the state parks special fund and special land development fund;
- (5) Allocating \$1,000,000 of the \$82,000,000 allocated to the tourism special fund for the operation of a Hawaiian center and the Museum of Hawaiian Music and Dance at the Hawaii Convention Center;
- (6) Allocating \$93,000,000, rather than 44.8 percent, of the transient accommodations tax revenue to the counties and repealing the \$93,000,000 cap on the amount to be transferred to the counties;
- (7) Allocating \$3,000,000 of the excess revenue from the transient accommodations tax deposited into the general fund for natural resources important to the visitor industry, facilities, and public lands connected with enhancing the visitor experience; provided that these funds shall be expended by mutual agreement of the Board of Land and Natural Resources and the Board of Directors of the Hawaii Tourism Authority;
- (8) Changing the effective date to July 1, 2013; and
- (9) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 1194, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1194, S.D. 2, H.D. 1, C.D. 1.



Respectfully submitted on behalf  
of the managers:

ON THE PART OF THE HOUSE

ON THE PART OF THE SENATE

  
SYLVIA LUKE, Co-Chair

  
BRICKWOOD GALUTERIA, Chair

  
TOM BROWER, Co-Chair

  
GILBERT S.C. KEITH-AGARAN  
Co-Chair

  
DAVID Y. IGE, Co-Chair



Hawaii State Legislature

CLR 146

Record of Votes of a  
Conference Committee

Bill / Concurrent Resolution No.: **SB 1194, SD 2, HD 1** Date/Time: **4/24/13 3:20pm**

The recommendation of the House and Senate managers is to pass with amendments (CD).

The Committee is reconsidering its previous decision.

The recommendation of the Senate Manager(s) is to AGREE to the House amendments made to the Senate Measure

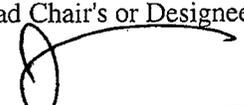
The recommendation of the House Manager(s) is to AGREE to the Senate amendments made to the House Measure.

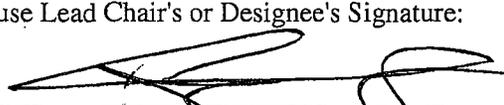
Senate Managers	A	WR	N	E	House Managers	A	WR	N	E
GALUTERIA, Brickwood, Chr.	✓				LUKE, Sylvia, Co-Chr.	✓			
KEITH-AGARAN, Gilbert S.C., Co-Chr.	✓				BROWER, Tom, Co-Chr.	✓			
IGE, David Y., Co-Chr.	✓				NISHIMOTO, Scott Y.	✓			
KIDANI, Michelle N.				✓	JOHANSON, Aaron Ling	✓			
KOUCHI, Ronald D.	✓								
<b>TOTAL</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>TOTAL</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>0</b>

A = Aye      WR = Aye with Reservations      N = Nay      E = Excused

Senate Recommendation is:  
 Adopted       Not Adopted

House Recommendation is:  
 Adopted       Not Adopted

Senate Lead Chair's or Designee's Signature:  


House Lead Chair's or Designee's Signature:  


Distribution:      Original      Yellow      Pink      Goldenrod  
File with Conference Committee Report      House Clerk's Office      Senate Clerk's Office      Drafting Agency

STAND. COM. REP. NO.

1469

Honolulu, Hawaii

April 5, 2013

RE: S.B. No. 1194  
S.D. 2  
H.D. 1

Honorable Joseph M. Souki  
Speaker, House of Representatives  
Twenty-Seventh State Legislature  
Regular Session of 2013  
State of Hawaii

Sir:

Your Committee on Finance, to which was referred S.B. No. 1194, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO TRANSIENT ACCOMMODATIONS TAX,"

begs leave to report as follows:

The purpose of this measure is to adjust Transient Accommodations Tax rates and the disposition of Transient Accommodations Tax revenues by:

- (1) Repealing the additional Transient Accommodations Tax imposed by Act 61, Session Laws of Hawaii 2009;
- (2) Repealing the daily Transient Accommodations Tax on complimentary or gratuitous accommodations; and
- (3) Making permanent the provisions providing for a cap on the Transient Accommodations Tax distribution to the Tourism Special Fund and the counties.

For purposes of holding a public hearing on this bill, your Committee circulated a proposed S.B. No. 1194, S.D. 2, H.D. 1 (Proposed Draft) and notified the public that your Committee would be accepting testimony on the Proposed Draft, which:

SB1194 HD1 HSCR FIN HMS 2013-3259



- (1) Deletes the additional Transient Accommodations Tax rates for the periods beginning on July 1, 2009, to June 30, 2010, and from July 1, 2010, and thereafter; and
- (2) Restores the distribution of collected tax revenues, including distribution caps, to the Tourism Special Fund and counties to existing rates.

The Hawaii Tourism Authority, Hawaii Lodging & Tourism Association, Grand Hyatt, Hilton Worldwide, Maui Hotel & Lodging Association, Hyatt Regency Maui Resort and Spa, Pacific Beach Hotel, Four Seasons Resort Hualalai at Historic Kaupulehu, Four Seasons Resort Maui, Ma'alaea Surf Resort, The New Otani Kaimana Beach Hotel, Kona-Kohala Chamber of Commerce, Maui Chamber of Commerce, Kauai Chamber of Commerce, Best Western Pioneer Inn, Marriott Hawaii, Outrigger Hotels Hawaii, Westin Maui Resort & Spa, Waikiki Improvement Association, VIP Foodservice, Kahana Falls Resort, and a few concerned individuals supported this measure. The Department of Budget and Finance, Office of the Mayor of the City and County of Honolulu, Office of the Mayor of the County of Hawaii, Office of the Mayor of the County of Maui, Department of Finance of the County of Kauai, Hawaii Council of Mayors, a member of the City Council of Honolulu, a member of the Hawaii County Council, a member of the Maui County Council, seven members of the Kauai County council, and a concerned individual opposed this bill. The Department of Taxation, Tax Foundation of Hawaii, The Chamber of Commerce of Hawaii, Kohala Coast Resort Association, ILWU Local 142, United Public Workers AFSCME Local 646 AFL-CIO, and Starwood Hotels and Resorts provided comments.

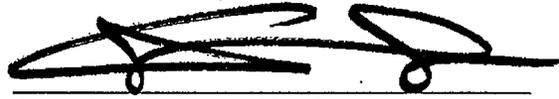
Your Committee has amended this measure by adopting the Proposed Draft and making the following additional amendments:

- (1) Specifying additional Transient Accommodations Tax rates for the following periods:
  - (A) July 1, 2009, to June 30, 2010;
  - (B) July 1, 2010, to June 30, 2013; and
  - (C) July 1, 2013, and thereafter; and
- (2) Providing that no more than \$71,000,000 per fiscal year will be deposited into the Tourism Special Fund for any period beginning on July 1, 2012, and thereafter, rather than from July 1, 2012, to June 30, 2015.



As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1194, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1194, S.D. 2, H.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on  
behalf of the members of the  
Committee on Finance,



SYLVIA LUKE, Chair





STAND. COM. REP. NO.

703

Honolulu, Hawaii

MAR 01 2013

RE: S.B. No. 1194  
S.D. 2

Honorable Donna Mercado Kim  
President of the Senate  
Twenty-Seventh State Legislature  
Regular Session of 2013  
State of Hawaii

Madam:

Your Committee on Ways and Means, to which was referred S.B. No. 1194, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO TRANSIENT ACCOMMODATIONS TAX,"

begs leave to report as follows:

The purpose and intent of this measure is to adjust the transient accommodations tax rate and the disposition of the transient accommodations tax revenues.

More specifically, this measure:

- (1) Makes permanent the transient accommodations tax rate of 9.25 per cent;
- (2) Eliminates the daily transient accommodations tax for complimentary accommodations;
- (3) Reduces the percentages of transient accommodations tax revenues distributed to the convention center enterprise special fund, the tourism special fund, and the counties; and
- (4) Repeals the temporary ceiling of \$71,000,000 in transient accommodations tax revenues per fiscal year distributed to the tourism special fund until June 30, 2015.



Your Committee received written comments in support of this measure from the Department of Taxation and Starwood Hotels and Resorts.

Your Committee received written comments in opposition to this measure from the Office of the Mayor of the County of Hawaii, the Office of the Mayor of the County of Maui, the Department of Budget and Fiscal Services of the City and County of Honolulu, the Council Chair of the County Council of Maui, three council members of the County Council of Hawaii, the Hawaii Council of Mayors, the Hawaii State Association of Counties, and one individual.

Your Committee received written comments on this measure from the Department of Budget and Finance, the Office of the Mayor of the City and County of Honolulu, and the Tax Foundation of Hawaii.

Your Committee finds that the increased revenues from the present tax rate will continue to effectively fund the activities of the Hawaii Tourism Authority, which markets the State world-wide and strengthens the State's tourism industry.

Your Committee has amended this measure by:

- (1) Retaining the temporary ceiling on transient accommodations tax revenues per fiscal year distributed to the tourism special fund but changing the amount of the ceiling to an unspecified figure;
- (2) Changing to an unspecified amount, the total amount of the transient accommodations tax revenues, and the percentages of the total amount of the transient accommodations tax revenues from the tourism special fund to be deposited into the state parks special fund and the special land and development fund; and
- (3) Changing the effective date to July 1, 2050, in order to facilitate continued discussion on the measure

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1194, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1194, S.D. 2.



Respectfully submitted on  
behalf of the members of the  
Committee on Ways and Means,

*David Y. Ige*

---

DAVID Y. IGE, Chair



The Senate  
Twenty-Seventh Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Ways and Means**  
**WAM**

Bill / Resolution No.:* SB1194, SD1	Committee Referral: THA, WAM	Date: 2-27-13		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
IGE, David Y. (C)	✓			
KIDANI, Michelle N. (VC)		✓		
CHUN OAKLAND, Suzanne	✓			
DELA CRUZ, Donovan M.				✓
ENGLISH, J. Kalani	✓			
ESPERO, Will	✓			
KAHELE, Gilbert	✓			
KEITH-AGARAN, Gilbert S.C.				✓
KOUCHI, Ronald D.	✓			
RUDERMAN, Russell E.		✓		
THIELEN, Laura H.		✓		
TOKUDA, Jill N.	✓			
SLOM, Sam		✓		
<b>TOTAL</b>	7 <sup>mk</sup>	4	0	2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <i>Michelle N. Kidani</i>				
<b>Distribution:</b> Original    Yellow    Pink    Goldenrod File with Committee Report    Clerk's Office    Drafting Agency    Committee File Copy				

\*Only one measure per Record of Votes

Honolulu, Hawaii

FEB 08 2013

RE: S.B. No. 1194  
S.D. 1

Honorable Donna Mercado Kim  
President of the Senate  
Twenty-Seventh State Legislature  
Regular Session of 2013  
State of Hawaii

Madam:

Your Committee on Tourism and Hawaiian Affairs, to which was referred S.B. No. 1194 entitled:

"A BILL FOR AN ACT RELATING TO TRANSIENT ACCOMMODATIONS TAX,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Eliminate the sunset of the transient accommodations tax rate of 9.25 percent;
- (2) Decrease the allocation of transient accommodations tax revenues to the convention center enterprise special fund, tourism special fund, and counties and make the allocations permanent; and
- (3) Eliminate the daily \$10 transient accommodations tax for complimentary accommodations.

Your Committee received testimony in support of this measure from the Department of Taxation, Department of Budget and Finance, and Hawaii Tourism Authority. Your Committee received testimony in opposition to this measure from the Maui County Council, County of Hawaii Office of the Mayor, Hawaii Council of Mayors, Maui Chamber of Commerce, Outrigger Enterprises Group, Hawaii Lodging and Tourism Association, The Chamber of Commerce of Hawaii, and VIP Foodservice. Your Committee received comments on this measure from the Tax Foundation of Hawaii.



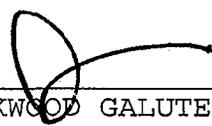
Your Committee finds that allowing the transient accommodations tax rate to return to 7.25 percent would take needed funds from the general fund. According to the Department of Budget and Finance, retaining a 9.25 percent tax rate is a key component to ensuring that the State's general fund financial plan remains balanced beyond the fiscal biennium 2013-2015. Your Committee further finds that despite recent growth in the tourist industry, Hawaii must continue to develop tourist programs and incentives so that Hawaii remains competitive in the global tourism market.

Accordingly, your Committee has amended this measure by:

- (1) Decreasing the percentage of transient accommodations tax revenues allocated to the tourism special fund but repealing the temporary \$71,000,000-per-fiscal-year limit on transient accommodations tax revenues that may be deposited into the tourism special fund; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Tourism and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1194, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1194, S.D. 1, and be referred to the Committee on Ways and Means.

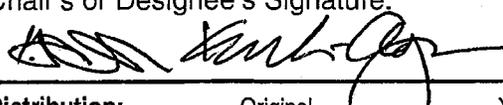
Respectfully submitted on  
behalf of the members of the  
Committee on Tourism and  
Hawaiian Affairs,

  
\_\_\_\_\_  
BRICKWOOD GALUTERIA, Chair



The Senate  
 Twenty-Seventh Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Tourism and Hawaiian Affairs**  
**THA**

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 1194	THA, WAM	2/4/13		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended <small>2312</small>				
<input checked="" type="checkbox"/> Pass, with amendments <small>2311</small>				
<input type="checkbox"/> Hold <small>2310</small>				
<input type="checkbox"/> Recommit <small>2313</small>				
Members	Aye	Aye (WR)	Nay	Excused
GALUTERIA, Brickwood (C)	✓			
KEITH-AGARAN, Gilbert S.C. (VC)	✓			✓
HEE, Clayton				✓
KAHELE, Gilbert	✓			
KIDANI, Michelle N.		✓		
SHIMABUKURO, Maile S.L.	✓			
SOLOMON, Malama	✓			
SLOM, Sam			✓	
<b>TOTAL</b>	<b>5</b>	<b>1</b>	<b>1</b>	<b>1</b>
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
Distribution:				
Original	Yellow	Pink	Goldenrod	
File with Committee Report	Clerk's Office	Drafting Agency	Committee File Copy	

\*Only one measure per Record of Votes

## **Act 103 (SLH 2011)**

### **Senate Bill 1186**

- Conference Committee Report No. 139, SB 1186, SD2, HD1, CD1 (April 29, 2011)
- Standing Committee Report No. 1453, (Committee on Finance), SB 1186, SD2, HD1 (April 8, 2011)
- Standing Committee Report No. 699, (Committee on Ways and Means), SB 1186, SD2 (March 4, 2011)
- Standing Committee Report No. 307, (Committee on Tourism), SB 1186, SD1 (February 17, 2011)

# **SESSION LAWS OF HAWAII**

**TWENTY-SIXTH STATE LEGISLATURE**

---

**REGULAR SESSION OF 2011**

---

## ACT 102

A Bill for an Act Relating to Taxation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 231-96, Hawaii Revised Statutes, is amended to read as follows:

~~“[§231-96] Failure to record transaction [by receipt]. (a) It shall be unlawful to conduct more than ten taxable business transactions per day in cash and fail to [provide]:~~

- ~~(1) Offer a receipt or other record of the transaction [when the means for issuing a receipt or recording the transaction are available]; and~~
- ~~(2) Maintain a contemporaneously generated record of all business transactions conducted each day.~~

~~whether handwritten or generated by a manually operated or electronic cash register. Each day a person is in violation of this section shall be treated as a separate violation.~~

~~[Any] (b) Except as provided in subsection (c), any person who violates this section shall be subject to a fine not to exceed \$1,000; provided that if the person is a cash-based business, the fine shall not exceed \$2,000.~~

~~(c) If the person, including a cash-based business, is otherwise in compliance with title 14 at the time of violation of this section, the fine for a violation of this section shall be commensurate with the violation, as determined by the department in accordance with rules adopted pursuant to chapter 91.”~~

SECTION 2. Section 231-97, Hawaii Revised Statutes, is repealed.

SECTION 3. This Act does not affect the rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 4. Statutory material to be repealed is bracketed and stricken.<sup>1</sup> New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 2011.

(Approved June 9, 2011.)

Note

1. Edited pursuant to HRS §23G-16.5.

**ACT 103**

**S.B. NO. 1186**

A Bill for an Act Relating to the Transient Accommodations Tax.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 237D-2, Hawaii Revised Statutes, is amended to read as follows:

ACT 103

**“§237D-2 Imposition and rates.** (a) There is levied and shall be assessed and collected each month a tax of:

- (1) Five per cent for the period beginning on January 1, 1987, to June 30, 1994;
- (2) Six per cent for the period beginning July 1, 1994, to December 31, 1998; and
- (3) 7.25 per cent for the period beginning on January 1, 1999, and thereafter;

on the gross rental or gross rental proceeds derived from furnishing transient accommodations.

(b) There is levied and shall be assessed and collected each month an additional:

- (1) One per cent for the period beginning July 1, 2009, to June 30, 2010; and
- (2) Two per cent for the period beginning July 1, 2010, to June 30, 2015;

on the gross rental or gross rental proceeds derived from furnishing transient accommodations. The rate levied and assessed under this subsection shall be additional to the rate levied and assessed under ~~[section 237D-2(a)(3)]~~ subsection (a)(3).

(c) There is levied and shall be assessed and collected each month a daily tax of \$10 for every transient accommodation that is furnished on a complimentary or gratuitous basis, or otherwise at no charge, including transient accommodations furnished as part of a package.

~~[(e)]~~ (d) Every operator shall pay to the State the tax imposed by subsections (a) ~~[and], (b), and (c), as applicable,~~ as provided in this chapter.

~~[(d)]~~ (e) There is levied and shall be assessed and collected each month, on the occupant of a resort time share vacation unit, a transient accommodations tax of 7.25 per cent on the fair market rental value.

~~[(e)]~~ (f) Every plan manager shall be liable for and pay to the State the transient accommodations tax imposed by subsection ~~[(d)]~~ (e) as provided in this chapter. Every resort time share vacation plan shall be represented by a plan manager who shall be subject to this chapter.”

SECTION 2. Section 237D-6.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Revenues collected under this chapter, except for revenues collected under section 237D-2(b), shall be distributed as follows, with the excess revenues to be deposited into the general fund:

- (1) 17.3 per cent of the revenues collected under this chapter shall be deposited into the convention center enterprise special fund established under section 201B-8; provided that beginning January 1, 2002, if the amount of the revenue collected under this paragraph exceeds \$33,000,000 in any calendar year, revenues collected in excess of \$33,000,000 shall be deposited into the general fund;
- (2) 34.2 per cent of the revenues collected under this chapter shall be deposited into the tourism special fund established under section 201B-11 for tourism promotion and visitor industry research; provided that for any period beginning on July 1, 2011, and ending on June 30, 2015, no more than \$69,000,000 per fiscal year shall be deposited into the tourism special fund established under section 201B-11; and provided further that beginning on July 1, 2002, of the first \$1,000,000 in revenues deposited:

- (A) Ninety per cent shall be deposited into the state parks special fund established in section 184-3.4; and
- (B) Ten per cent shall be deposited into the special land and development fund established in section 171-19 for the Hawaii statewide trail and access program;

provided that of the 34.2 per cent, 0.5 per cent shall be transferred to a sub-account in the tourism special fund to provide funding for a safety and security budget, in accordance with the Hawaii tourism strategic plan 2005-2015; provided further that of the revenues remaining in the tourism special fund after revenues have been deposited as provided in this paragraph and except for any sum authorized by the legislature for expenditure from revenues subject to this paragraph, beginning July 1, 2007, funds shall be deposited into the tourism emergency trust fund, established in section 201B-10, in a manner sufficient to maintain a fund balance of \$5,000,000 in the tourism emergency trust fund; and

- (3) 44.8 per cent of the revenues collected under this chapter shall be transferred as follows: Kauai county shall receive 14.5 per cent, Hawaii county shall receive 18.6 per cent, city and county of Honolulu shall receive 44.1 per cent, and Maui county shall receive 22.8 per cent[-]; provided that for any period beginning on July 1, 2011, and ending on June 30, 2015, the total amount transferred to the counties shall not exceed \$93,000,000 per fiscal year.

Revenues collected under section 237D-2(b) shall be deposited into the general fund. All transient accommodations taxes shall be paid into the state treasury each month within ten days after collection and shall be kept by the state director of finance in special accounts for distribution as provided in this subsection.”

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2011; provided that section 2 of this Act shall be repealed on June 30, 2015, and section 237D-6.5, Hawaii Revised Statutes, shall be reenacted in the form in which it read on June 30, 2009, pursuant to Act 61, Session Laws of Hawaii 2009.

(Approved June 9, 2011.)

## ACT 104

H.B. NO. 1039

A Bill for an Act Relating to Transportation.

*Be It Enacted by the Legislature of the State of Hawaii:*

### PART I

SECTION 1. Act 33, Special Session Laws of Hawaii 2009, sought to provide the department of transportation with the discretion and flexibility to provide relief to various airport concessionaires due to sudden, extraordinary, and severe economic events. The legislature recognized that the department of transportation's relief efforts were not fair to all concessionaires, in that some concessionaires had a self-adjusting eighty-five per cent guaranteed rent adjusting formula that provided relief for adverse economic events. Other conces-

CONFERENCE COMMITTEE REP. NO.

139

Honolulu, Hawaii

, 2011

APR 29 2011

RE: S.B. No. 1186  
S.D. 2  
H.D. 1  
C.D. 1

Honorable Shan S. Tsutsui  
President of the Senate  
Twenty-Sixth State Legislature  
Regular Session of 2011  
State of Hawaii

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Sixth State Legislature  
Regular Session of 2011  
State of Hawaii

Sirs:

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House of Representatives in S.B. No. 1186, S.D. 2, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO THE TRANSIENT ACCOMMODATIONS TAX,"

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to address the State's budget shortfall by increasing state revenues from the transient accommodations tax.

Specifically, this measure, from July 1, 2011, to June 30, 2015:

- (1) Imposes a minimum daily tax on transient accommodations furnished at no charge;



- (2) Increases the tax rate on resort time share vacation units by an additional two per cent to conform with the tax rate on other transient accommodations; and
- (3) Limits the transient accommodations tax revenue distribution to the counties to approximately the same amount distributed in fiscal year 2009-2010.

Your Committee on Conference finds that this measure is intended to temporarily increase and preserve the amount of state revenues derived from the transient accommodations tax and is a necessary component of the package of legislation aimed at addressing the State's current economic crisis.

Your Committee on Conference has amended this measure by:

- (1) Removing the time limit on the daily tax of \$10 and clarifying that the tax applies to every transient accommodation that is furnished on a complimentary or gratuitous basis or otherwise at no charge, including that furnished as part of a package;
- (2) Eliminating the provision increasing the tax rate on resort time share vacation units;
- (3) Limiting transient accommodations tax revenues deposited into the tourism special fund from July 1, 2011, to June 30, 2015, to no more than \$69,000,000 per fiscal year;
- (4) Capping the total amount of transient accommodations tax revenues distributed to the counties from July 1, 2011, to June 30, 2015, to \$93,000,000 per fiscal year;
- (5) Eliminating the provision specifying how the allocations of the transient accommodations tax to the counties are to be made; and
- (6) Making technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 1186, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1186, S.D. 2, H.D. 1, C.D. 1.



Respectfully submitted on behalf  
of the managers:

ON THE PART OF THE HOUSE

ON THE PART OF THE SENATE

  
MARCUS R. OSHIRO, Chair

  
DONNA MERCADO KIM, Chair

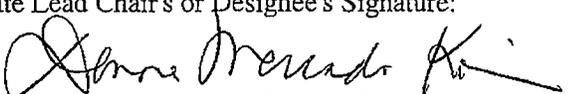
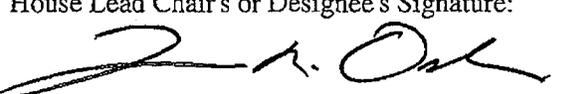
  
DAVID Y. IGE, Co-Chair

  
RONALD D. KOUCHI, Co-Chair



Hawaii State Legislature

Record of Votes of a  
Conference Committee

Bill / Concurrent Resolution No.: <b>SB 1186, SD 2, HD 1</b>					Date/Time: <i>4-29-11 / 9:40 pm</i>						
<input checked="" type="checkbox"/> The recommendation of the House and Senate managers is to pass with amendments (CD).											
<input type="checkbox"/> The Committee is reconsidering its previous decision.											
<input type="checkbox"/> The recommendation of the Senate Manager(s) is to AGREE to the House amendments made to the Senate Measure					<input type="checkbox"/> The recommendation of the House Manager(s) is to AGREE to the Senate amendments made to the House Measure.						
Senate Managers		A	WR	N	E	House Managers		A	WR	N	E
KIM, Donna Mercado, Chr.		✓				OSHIRO, Marcus R., Chr.		✓			
IGE, David Y., Co-Chr.		✓				CHONG, Pono		✓			
KOUCHI, Ronald D., Co-Chr.		✓				CHOY, Isaac W.		✓			
ENGLISH, J. Kalani		✓				LBE, Marilyn B.		✓			
TOKUDA, Jill N.		✓				RIVIERE, Gil		✓			
TOTAL		5	<del>0</del>	<del>0</del>	<del>0</del>	TOTAL		5	<del>0</del>	<del>0</del>	<del>0</del>
A = Aye		WR = Aye with Reservations			N = Nay			E = Excused			
Senate Recommendation is:						House Recommendation is:					
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted						<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted					
Senate Lead Chair's or Designee's Signature:						House Lead Chair's or Designee's Signature:					
											
Distribution:		Original <i>File with Conference Committee Report</i>			Yellow <i>House Clerk's Office</i>		Pink <i>Senate Clerk's Office</i>		Goldenrod <i>Drafting Agency</i>		

STAND. COM. REP. NO. 1453

Honolulu, Hawaii

April 8, 2011

RE: S.B. No. 1186  
S.D. 2  
H.D. 1

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Sixth State Legislature  
Regular Session of 2011  
State of Hawaii

Sir:

Your Committee on Finance, to which was referred S.B. No. 1186, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO THE TRANSIENT ACCOMMODATIONS TAX,"

begs leave to report as follows:

The purpose of this bill, as received by your Committee, is to work to address the current economic crisis facing the State by:

- (1) Levying the Transient Accommodations Tax (TAT) revenues from transient accommodations that are furnished on a complimentary or gratuitous basis, or otherwise at no charge; and
- (2) Limiting the dollar amount of TAT revenues transferred to the Tourism Special Fund and to the counties until July 1, 2015.

This measure also requires part of the excess revenues collected under the TAT and deposited into the general fund to be used for environmental protection, improvements to public facilities impacted by visitors, and advancing Hawaiian culture and the arts.

SB1186 HD1 HSCR FIN HMS 2011-3621



Prior to the hearing, your Committee circulated for review and comment and accepted testimony on a Proposed H.D. 1. As amended, the purpose of the Proposed H.D. 1 is to address the current economic crisis facing the State by:

- (1) Establishing a daily minimum tax on transient accommodations furnished at no charge for the period beginning on July 1, 2011, until June 30, 2015;
- (2) Increasing the TAT rate on resort time share vacation units to equal the rate on other transient accommodations for the period beginning on July 1, 2011, until June 30, 2015; and
- (3) Limiting the TAT revenue distribution to the counties to approximately the same amount distributed to the counties in Fiscal Year 2009-2010 until June 30, 2015.

The Department of Taxation testified in support of this bill. Starwood Hotels and Resorts; Disney Vacation Club in Hawaii; PAHIO Development, Inc.; Starwood Vacation Ownership; three Councilmembers of the Maui County Council; and several concerned individuals testified in opposition to this measure. The Department of Budget and Finance, Mayor of the City and County of Honolulu, Hawaii Council of Mayors, Tax Foundation of Hawaii, American Resort Developers Association-Hawaii, Resort Owners' Coalition of the American Resort Developers Association, and Wyndham Worldwide offered comments.

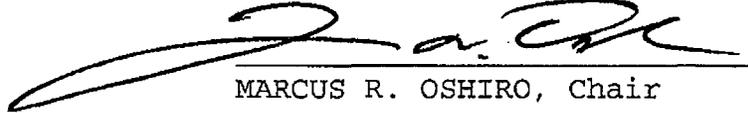
Your Committee has amended this bill by:

- (1) Adopting the language contained in the Proposed H.D. 1; and
- (2) Making additional technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1186, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1186, S.D. 2, H.D. 1, and be placed on the calendar for Third Reading.



Respectfully submitted on  
behalf of the members of the  
Committee on Finance,



MARCUS R. OSHIRO, Chair





STAND. COM. REP. NO.

699

Honolulu, Hawaii

MAR 04 2011

RE: S.B. No. 1186  
S.D. 2

Honorable Shan S. Tsutsui  
President of the Senate  
Twenty-Sixth State Legislature  
Regular Session of 2011  
State of Hawaii

Sir:

Your Committee on Ways and Means, to which was referred S.B. No. 1186, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO THE TRANSIENT ACCOMMODATIONS TAX,"

begs leave to report as follows:

The purpose and intent of this measure is to realize transient accommodations tax revenues from transient accommodations that are furnished on a complimentary or gratuitous basis, or otherwise at no charge.

This measure also limits the dollar amount of transient accommodations tax revenues transferred to the tourism special fund and to the counties until July 1, 2015.

Your Committee received comments in support of this measure from William J. Aila, Jr., Chairperson, Department of Land and Natural Resources.

Your Committee received comments in opposition to this measure from the City and County of Honolulu; Keith Vieira, Senior Vice President of Operations, Starwood Hotels and Resorts, Hawaii and French Polynesia; and one individual.

Your Committee received comments on this measure from Mike McCartney, President and Chief Executive Officer, Hawaii Tourism Authority; Bernard P. Carvalho, Jr., Mayor, County of Kauai; and the Tax Foundation of Hawaii.

SB1186 SD2 SSCR LRB 11-2462.doc



699

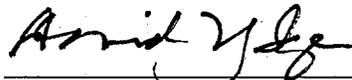
Your Committee finds that the revenues generated from application of the transient accommodations tax to transient accommodations that are furnished on a complimentary or gratuitous basis, or otherwise at no charge, would be used to fund important projects, including protecting the environment, improving public facilities impacted by visitors, and advancing Hawaiian culture and the arts.

Your Committee has amended this measure by:

- (1) Changing all dollar amounts to unspecified sums;
- (2) Changing the effective date to July 1, 2050, to facilitate further discussion on the issue; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1186, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1186, S.D. 2.

Respectfully submitted on  
behalf of the members of the  
Committee on Ways and Means,



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DAVID Y. IGE, Chair



The Senate  
 Twenty-Sixth Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Ways and Means**  
**WAM**

Bill / Resolution No.:	Committee Referral:	Date:
SB 1186, SD	TSM, WAM	3-11
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____		
The Recommendation is:		
<input type="checkbox"/> Pass, unamended 2312	<input checked="" type="checkbox"/> Pass, with amendments 2311	<input type="checkbox"/> Hold 2310
<input type="checkbox"/> Recommit 2313		
Members	Aye	Aye (WR)
	Nay	Excused
IGE, David Y. (C)	/	
KIDANI, Michelle N. (VC)	/	
CHUN OAKLAND, Suzanne	/	
DELA CRUZ, Donovan M.	/	
ENGLISH, J. Kalani	/	
ESPERO, Will	/	
FUKUNAGA, Carol	/	
KIM, Donna Mercado	/	
KAHELE, Gilbert	/	
KOUCHI, Ronald D.	/	
RYAN, Pohai		/
TOKUDA, Jill N.	/	
WAKAI, Glenn	/	
SLOM, Sam		/
<b>TOTAL</b>	<b>12</b>	<b>1</b>
		<b>1</b>
		<b>0</b>
Recommendation:		
<input checked="" type="checkbox"/> Adopted	<input type="checkbox"/> Not Adopted	
Chair's or Designee's Signature:		
		
Distribution:		
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency
		Goldenrod Committee File Copy

\*Only one measure per Record of Votes

STAND. COM. REP. NO.

**307**

Honolulu, Hawaii

FEB 17 2011

RE: S.B. No. 1186  
S.D. 1

Honorable Shan S. Tsutsui  
President of the Senate  
Twenty-Sixth State Legislature  
Regular Session of 2011  
State of Hawaii

Sir:

Your Committee on Tourism, to which was referred S.B. No. 1186 entitled:

"A BILL FOR AN ACT RELATING TO THE TRANSIENT ACCOMMODATIONS TAX,"

begs leave to report as follows:

The purpose and intent of this measure is to apply the Transient Accommodations Tax to transient accommodations that are furnished on a complimentary or gratuitous basis, or otherwise at no charge, in order to allow the State to realize transient accommodations tax revenue from these gratuitous accommodations.

Your Committee received testimony in opposition to this measure from the Royal Hawaiian Hotel, the Hawai'i Hotel and Lodging Association, and two private citizens. Your Committee received comments on this measure from the Department of Taxation and the Hawai'i Tourism Authority.

Your Committee finds that additional revenue streams are needed to protect the environment, make improvements to public facilities that have been impacted by visitors, and to advance Hawaiian cultural activities. Your Committee further finds that the promotion of Hawaiian culture and the arts should be at the forefront of the State's tourism agenda. Your Committee supports this measure as an opportunity to enhance the State's existing revenue streams in order to achieve these goals.

Accordingly, your Committee has amended this measure by:

2011-1163 SSCR SMA.doc

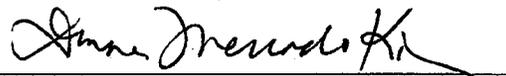


- (1) Imposing a daily \$10 tax on transient accommodations that are furnished on a complimentary or gratuitous basis, or otherwise at no charge; and
- (2) For any period beginning on or after July 1, 2011, and ending prior to July 1, 2015:
  - (A) Capping the Transient Accommodations Tax revenues allocated to the Tourism Special Fund at \$69,000,000 per fiscal year;
  - (B) Capping the Transient Accommodations Tax revenues allocated to the counties at \$90,000,000 per fiscal year; and
  - (C) Requiring that \$20,000,000 of the excess Transient Accommodations Tax revenues deposited into the General Fund per fiscal year shall be used for environmental protection, improvements to public facilities impacted by visitors, and advancing Hawaiian culture and the arts.

Prior to amending this measure, a proposed S.D. 1 was prepared by your Committee and made available for public review.

As affirmed by the record of votes of the members of your Committee on Tourism that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1186, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1186, S.D. 1, and be referred to the Committee on Ways and Means.

Respectfully submitted on  
behalf of the members of the  
Committee on Tourism,



DONNA MERCADO KIM, Chair



The Senate  
 Twenty-Sixth Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Tourism**  
**TSM**

Bill / Resolution No.:* <b>SB 1186</b>	Committee Referral: <b>TSM, WAM</b>	Date: <b>2/15/11</b>
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The committee is reconsidering its previous decision on this measure.  
 If so, then the previous decision was to: \_\_\_\_\_

The Recommendation is:

Pass, unamended 2312    
  Pass, with amendments 2311    
 Hold 2310    
 Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
KIM, Donna Mercado (C)	✓			
KOUCHI, Ronald D. (VC)				✓
GALUTERIA, Brickwood	✓			
KAHELE, Gilbert	✓			
SLOM, Sam			✓	
<b>TOTAL</b>	<b>3</b>		<b>1</b>	<b>1</b>

Recommendation:    
 Adopted    
 Not Adopted

Chair's or Designee's Signature:

**Distribution:**    
 Original                      Yellow                      Pink                      Goldenrod  
 File with Committee Report    Clerk's Office            Drafting Agency        Committee File Copy

\*Only one measure per Record of Votes

## **Act 185 (SLH 1990)**

### **House Bill 1148**

- Conference Committee Report No. 207, HB 1148
- Standing Committee Report No. 3071  
(Committee on Ways and Means), HB 1148
- Standing Committee Report No. 2297  
(Joint Tourism, Recreation and Planning and  
Government Operations), SB 2919

# **SESSION LAWS OF HAWAII**

**FIFTEENTH STATE LEGISLATURE**



**REGULAR SESSION OF 1990**



ACT 185

tangible or intangible, any place of business, or any representation as hereinabove defined, (and irrespective of the seller's having or not having qualified to do business in the State) shall, if the seller makes sales of property for use in the State (whether or not the sales are made in the State) collect from the purchaser the [tax] taxes imposed by [section] sections 238-2(3) and 238- on the use of the property so sold by the seller. The collection shall be made within twenty days after the accrual of the tax or within such other period as shall be fixed by the director of taxation upon the application of the seller, and the seller shall give to the purchaser a receipt therefor in the manner and form prescribed by the director; provided that this subsection shall not apply to vehicles registered under section 286-50."

SECTION 11. The State shall enter into a development agreement with the city and county of Honolulu for the development of a fixed rail rapid transit system by November 15, 1991. The terms of the development agreement shall be as described in a bill establishing the transit capital development fund, in any form passed by the legislature, regular session of 1990. This development agreement shall be submitted to the legislature for review by December 1, 1991. The legislature may disapprove the development agreement by concurrent resolution during the 1992 regular session.

SECTION 12. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 13. This Act shall take effect upon its approval only if a bill establishing the transit capital development fund, in any form passed by the legislature, regular session of 1990, becomes an Act, and shall remain in effect until December 31, 2002, except that if no development agreement is submitted to the legislature by December 1, 1991, or if the legislature disapproves the development agreement, pursuant to section 11 of this Act, the provisions of this Act shall be repealed; and except that the provisions of section 9 shall take effect on January 1, 1991.

(Approved June 19, 1990.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 185

H.B. NO. 1148

A Bill for an Act Relating to Taxation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to share with the counties revenues generated by the transient accommodations tax.

SECTION 2. Chapter 237D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§237D- Remittances; distribution to counties. (a) All remittances of taxes imposed under this chapter shall be made by cash, bank drafts, cashier's check, money order, or certificate of deposit to the office of the taxation district to which the return was transmitted.

(b) For the fiscal year beginning July 1, 1990, and for each fiscal year thereafter, revenues collected under this chapter shall be distributed as follows: five per cent of the revenues collected under this chapter shall be retained by the State to be used for the costs of assessment, collection, and disposition of the transient accommodations under this chapter. Of the remainder, Kauai county shall receive 14.5 per cent; Hawaii county shall receive 18.6 per cent; city and county of Honolulu shall receive 44.1 per cent; and Maui county shall receive 22.8 per cent.

All transient accommodations taxes shall be paid into the state treasury each month within ten days after collection, and shall be kept by the state director of finance in special accounts for distribution as provided in this subsection; provided that, all taxes levied and assessed under this chapter for periods before July 1, 1990, but collected after June 30, 1990, shall be state realizations.

(c) On or before January or July 1 of each year or after the disposition of any tax appeal with respect to an assessment for periods after June 30, 1990, the state director of finance shall compute and pay the amount due as provided for in subsection (b) to the director of finance of each county to become a general realization of the county expendable as such, except as otherwise provided by law."

SECTION 3. Section 237D-1, Hawaii Revised Statutes, is amended by amending the definition of "gross rental" or "gross rental proceeds" to read as follows:

" "Gross rental" or "gross rental proceeds" means the gross receipts, cash or accrued, of the taxpayer received as compensation for the furnishing of transient accommodations and the value proceeding or accruing from the furnishing of such accommodations without any deductions on account of the cost of property or services sold, the cost of materials used, labor cost, taxes, royalties, interest, discounts, or any other expenses whatsoever. Every taxpayer shall be presumed to be dealing on a cash basis unless the taxpayer proves to the satisfaction of the department of taxation that the taxpayer is dealing on an accrual basis and the taxpayer's books are so kept, or unless the taxpayer employs or is required to employ the accrual basis for the purposes of the tax imposed by chapter 237 for any taxable year in which event the taxpayer shall report the taxpayer's gross income for the purposes of this chapter on the accrual basis for the same period.

The words "gross rental" or "gross rental proceeds" shall not be construed to include the amounts of taxes imposed by chapter 237 or this chapter on operators of transient accommodations and passed on, collected, and received from the consumer as part of the receipts received as compensation for the furnishing of transient accommodations. Where transient accommodations are furnished through arrangements made by a travel agency or tour packager at noncommissionable negotiated contract rates and the gross income is divided between the operator of transient accommodations on the one hand and the travel agency or tour packager on the other hand, gross rental or gross rental proceeds to the operator means only the respective portion allocated or distributed to the operator, and no more. For purposes of this definition, where the operator maintains a schedule of rates for identifiable groups of individuals, such as kamaainas, upon which the accommodations are leased, let, or rented, gross rental or gross rental proceeds means the receipts collected and received based upon the scheduled rates and recorded as receipts in its books and records."

ACT 186

SECTION 4. Section 237D-6, Hawaii Revised Statutes, is amended by amending its title and subsection (a) to read as follows:

**“§237D-6 Return and payments; [remittance;] penalties.** (a) On or before the last day of each calendar month, every operator taxable under this chapter during the preceding calendar month shall file a sworn return with the director in such form as the director shall prescribe[,] together with a remittance for the amount of the tax in the form required by section 237D- Sections 237-30[, 237-31,] and 237-32 shall apply to returns[, remittances,] and penalties made under this chapter to the same extent as if the sections were set forth specifically in this section.”

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 6. This Act shall take effect on July 1, 1990.

(Approved June 19, 1990.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 186

S.B. NO. 2376

A Bill for an Act Relating to Tax Credits.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that Article VII, section 6, of the Constitution of the State of Hawaii requires the legislature to provide a tax refund or tax credit when certain factors are met. The legislature finds that these factors have been met for the ninth year in a row and that the legislature is constitutionally required to give a tax credit or a tax refund.

The purpose of this Act is to provide for an income tax credit of \$60 to the people of the State to satisfy constitutionally mandated requirements.

SECTION 2. (a) In addition to the excise tax credit allowed under section 235-55.5, Hawaii Revised Statutes, and in addition to any other credit allowed under chapter 235, Hawaii Revised Statutes, there shall be allowed each resident individual taxpayer who qualifies under section 235-55.5(a), Hawaii Revised Statutes, a general income tax credit of \$60 which shall be deducted from income tax liability computed under chapter 235, Hawaii Revised Statutes. The general income tax credit of \$60 shall be multiplied by the number of qualified exemptions as defined in section 235-55.5(c), Hawaii Revised Statutes, to which the taxpayer is entitled, regardless of adjusted gross income. Section 235-55.5(c), Hawaii Revised Statutes, to the contrary notwithstanding, such qualified exemption shall have been a resident of the State as defined in section 235-1, Hawaii Revised Statutes, for at least nine months whether or not such qualified resident was physically in the State for nine months. For the purposes of this section, multiple exemptions shall not be granted for this credit because of age, or deficiencies in vision, hearing, or other disability. The general income tax credit allowed under this section shall be deducted from income tax liability for the taxable year 1990. Section 235-55.5(d) and (e), Hawaii Revised Statutes, is

**HOUSE JOURNAL**  
**REGULAR SESSION**

**1990**

- (3) Acquisition of credit by noncontributory members at no cost.

Your Committee has amended this measure by correcting a typographical drafting error.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2891, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2891, H.D. 2, S.D. 2, C.D. 1.

Representatives Takamine, Souki, Fukunaga, Horita, Tajiri, Taniguchi and Anderson,  
Managers on the part of the House.

Senators Yamasaki, A. Kobayashi, Mizuguchi, Nakasato and Koki,  
Managers on the part of the Senate.

**Conf. Com. Rep. 207 on H.B. No. 1148**

The purpose of this bill, as received, is to share the tax revenues generated by the transient accommodations tax (TAT) with the counties by:

- (1) Amending the definition of "gross rental" or "gross rental proceeds" to exclude taxes imposed by the TAT;
- (2) Amending the TAT tax rate of 5 per cent to an unspecified rate;
- (3) Requiring that an unspecified percentage of the tax revenues be retained by the State and making an undetermined amount available for appropriation to the counties for improvement to the infrastructure and other tourism-related activities;
- (4) Requiring that the Director of Finance establish a separate special account into which an undetermined percentage of the tax revenues shall be deposited; and
- (5) Appropriating \$75,000 for fiscal year 1990-1991 to the Department of Budget and Finance to implement the provisions of the bill.

Your Committee agrees that a more equitable method of sharing state revenues with the counties must be provided. A stable and continuing source of revenue will enable the counties to provide for their needs. Currently, the counties must come before the legislature each year to request financial assistance. This process discourages long-range planning.

During this legislative session, both houses considered several proposals to determine the most equitable means of sharing state revenues with the counties. Among the proposals that were considered were the transfer of revenues collected from the transient accommodations tax, a portion of the public service company tax, animal fines, and unadjudicated traffic and parking fines and forfeitures to the counties.

Your Committee finds that the administrative costs and burdens of distributing revenues from several smaller sources will be considerably greater than the costs of distributing from one large source.

Your Committee also notes that tourism is the largest industry in Hawaii, and many of the burdens imposed by tourism falls on the counties. Increased pressures of the visitor industry mean greater demands on county services. Many of the costs of providing, maintaining, and upgrading police and fire protection, parks, beaches, water, roads, sewage systems, and other tourism related infrastructure are being borne by the counties.

Upon further consideration, your Committee has amended this bill in order to share the TAT revenues with the counties. More specifically, your Committee has amended this bill by:

- (1) Providing that 5 percent of the TAT revenues will be retained by the State to cover the administrative costs of assessment, collection, and disposition of the revenues, with the remainder of the TAT revenues will be distributed to the counties;
- (2) Specifying the percentage each county will receive from the 95 percent in TAT revenues as follows: the City and County of Honolulu will receive 44.1 percent, the County of Maui will receive 22.8 percent, the County of Hawaii will receive 18.6 percent, and the County of Kauai will receive 14.5 percent;
- (3) Allowing the counties to use the TAT revenues for any county purpose;
- (4) Specifying that all TAT revenues be paid into the state treasury within ten working days of collection and kept in special accounts;
- (5) Maintaining the current 5 per cent TAT rate; and
- (6) Deleting the appropriation section.

The Council of Revenues has estimated that \$90 million would be generated from TAT revenues for fiscal year 1991. Based on this projection and the formula provided in this measure, the counties would receive \$85.5 million with each county projected to receive the following:

City and County of Honolulu	\$37,500,000
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County of Maui	\$19,500,000
County of Hawaii	\$15,900,000
County of Kauai	\$12,400,000

Your Committee finds that sharing TAT revenues with the counties by distributing the revenues among the counties in proportion to the population of each county would best accomplish the intent of this measure in an equitable manner. Your Committee further finds that this method will provide the counties with a predictable, flexible, and permanent source of revenues.

Since your Committee intends this measure to be an equitable plan to distribute funds, your Committee notes that the Legislature may re-examine this TAT sharing mechanism if the county uses its present real property taxing powers to selectively impose a heavier burden on one industry over other industries who are currently paying the nonresidential real property tax rate.

The distribution of the TAT revenues to the counties does not mean that the Legislature has lessened its state support and commitment to the tourism industry. On the contrary, your Committee finds that because of tourism, Hawaii now enjoys economic prosperity. Your Committee further finds that past state support for tourism marketing and promotions programs have resulted in making tourism Hawaii's largest industry. It is the intent of your Committee to continue its financing of the Convention Center Authority and future funding for statewide tourism marketing and promotion to ensure the continued vitality of the tourism industry in Hawaii.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1148, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1148, S.D. 1, C.D. 1.

Representatives Cachola, Souki, Tom, Baker, Chang, Duldulao, Fukunaga, Horita, M. Ige, Ihara, Isbell, Kanohe, Kawakami, Leong, Say, Tajiri, Yonamine, Liu and Marumoto,  
Managers on the part of the House.

Senators Yamasaki, Holt, Ikeda, A. Kobayashi and McCartney,  
Managers on the part of the Senate.

**Conf. Com. Rep. 208 on H.B. No. 1576**

The purpose of this bill is to implement the constitutional mandate to provide a tax refund or tax credit when, under certain conditions, there is a surplus in the state general fund.

Article VII, section 6, of the Constitution of the State of Hawaii requires the Legislature to provide for a tax refund or tax credit to the taxpayers of the State whenever the state general fund balance at the close of each of two successive fiscal years exceeds five percent of general fund revenues for each of the two fiscal years. Since these factors have been met, this bill is necessary to satisfy the constitutional mandate.

Your Committee upon further consideration has amended this bill to reflect a general income tax credit which shall be \$65 deducted from income tax liability.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1576, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1576, H.D. 1, S.D. 1, C.D. 1.

Representatives Souki, Baker, Chang, Duldulao, Fukunaga, Horita, M. Ige, Ihara, Isbell, Kanohe, Kawakami, Leong, Say, Tajiri, Yonamine, Liu and Marumoto,  
Managers on the part of the House.

Senators Yamasaki, Fernandes Salling, Hagino, Ikeda, A. Kobayashi, Matsuura, McCartney, McMurdo, Mizuguchi, Solomon, Tungpalan, George and Koki,  
Managers on the part of the Senate.

**Conf. Com. Rep. 209 on H.B. No. 1148**

The purpose of this bill is to share the tax revenues generated by the transient accommodations tax (TAT) with the counties.

Your Committee has amended this measure to correct a technical drafting error.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1148, S.D. 1, C.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1148, S.D. 1, C.D. 2.

Representatives Cachola, Souki, Tom, Baker, Chang, Duldulao, Fukunaga, Horita, M. Ige, Ihara, Isbell, Kanohe, Kawakami, Leong, Say, Tajiri, Yonamine, Liu and Marumoto,  
Managers on the part of the House.

Senators Yamasaki, Holt, Ikeda, A. Kobayashi, McCartney and George,  
Managers on the part of the Senate.

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- (5) In section 7, the language allowing a subcontractor to request criminal history records was deleted;
- (6) In section 9, the provision authorizing the board of education to adjust fees was deleted; and
- (7) Technical, nonsubstantive amendments were made throughout the bill for purposes of clarity and style.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2299, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2299, H.D. 2, S.D. 2.

Signed by all members of the Committee.

**SCRep. 3071 Ways and Means on H.B. No. 1148**

The purpose of this bill as received is to require persons filing general excise and transient accommodations tax returns from more than one district in the first taxation district office to provide a breakdown of the return specifying the amount incurred in each taxation district.

Upon consideration, your Committee has amended this bill by deleting the entire contents of H.B. No. 1148, and substituting in its place the contents of S.B. No. 2919, S.D. 2, which proposes to share with the counties transient accommodations tax revenues collected by the State by:

- (1) Amending the definition of "gross rental" or "gross rental proceeds" to exclude taxes imposed by the transient accommodations tax;
- (2) Blanking the transient accommodations tax rate which was previously five per cent;
- (3) Requiring that an unspecified percentage of the tax revenues be retained by the State and used for the convention center, tourism promotion, and other tourism-related activities, while an undetermined percentage of the revenues be made available for appropriation to the counties for improvements to infrastructure and other tourism-related activities;
- (4) Requiring that the director of finance establish a separate special account into which an undetermined percentage of the tax revenues shall be deposited;
- (5) Appropriating \$75,000 for fiscal year 1990-1991 to the department of budget and finance to implement the provisions of the bill; and
- (6) Requiring that the director of finance, in consultation with the director of taxation, report on actions, findings, and recommendations relating to the implementation of the bill to the 1991 legislature.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1148, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1148, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 3072 Ways and Means on H.B. No. 2985**

The purpose of this bill is to appropriate funds for the lease or acquisition or plans, design, and construction of multipurpose centers for the leeward Oahu community mental health center and the Lanakila health center for mental services in the Kalihi-Palama area.

Your Committee finds that these centers are necessary to provide services for seriously disabled mentally ill clients of the community mental health centers for the leeward Oahu and Kalihi-Palama service areas.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2985, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 3073 Ways and Means on H.B. No. 2896**

The purpose of this bill is to clarify the basis for determining the revenue due to the office of Hawaiian affairs (OHA) for the betterment of the conditions of native Hawaiians under the provisions of the State Constitution and chapter 10, Hawaii Revised Statutes.

More specifically, the bill would:

- (1) Clarify which lands comprise the public land trust for native Hawaiians under chapter 10, Hawaii Revised Statutes;
- (2) Clarify what constitutes revenue derived from the public land trust which in turn forms the basis for determining the pro rata share of OHA;

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the transfer of the park itself to the Historic Preservation Program. The Advisory Council expressed a preference to keep the park under its current status, but noted the need to address historic preservation issues at the park.

Your Committee finds that the archaeological sites and artifacts at Kualoa Regional Park are important resources of the State and its people, and protecting and preserving these resources is a high priority.

Your Committee has amended the bill to specify \$1 as the amount to be appropriated for both the transfer of archaeological functions and the hiring of additional personnel. Your Committee has also made five grammatical revisions to the bill which have no substantive effect.

Your Committee on Tourism, Recreation and Planning is in accord with the intent and purpose of S.B. No. 3304, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3304, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.  
Senator George did not concur.

**SCRep. 2296 Tourism, Recreation and Planning on S.B. No. 3306**

The purpose of this bill is to resolve competing uses within Kaneohe Bay by classifying the bay as a state park and placing responsibility for its control and management under a single agency, the Department of Land and Natural Resources. The bill would require the Department to adopt and enforce rules to preserve and protect the bay and resolve conflicts between the many diverse users of the bay. The Department would also be required to develop a master plan for the bay, in consultation with a Kaneohe Bay advisory committee to be created pursuant to the bill. Finally, the bill would appropriate a sum to be identified for fiscal year 1990-1991 to carry out the purposes of the bill.

Your Committee received supporting testimony from the University of Hawaii Institute of Marine Biology, the Kaneohe Neighborhood Board, the Kaneohe Bay Yacht Club, and several citizens from the Kaneohe Bay area. Your Committee also received testimony from the Chairperson of the Board of Land and Natural Resources supporting the general intent and purpose of the bill, but indicating that the Department of Transportation's Ocean Recreation Management Plan is a more desirable means to regulate activities in the bay and to address ongoing user competition problems.

Your Committee finds that it is appropriate, given the unique ecological nature of Kaneohe Bay and the need to preserve the quality of life in the surrounding community, to place responsibility for management and control of the bay under the Department of Land and Natural Resources.

Your Committee has amended the bill to:

- (1) Delete the provisions classifying Kaneohe Bay as a state natural resource within the state park system;
- (2) Add a provision authorizing the Department of Land and Natural Resources to require commercial users to prepare environmental assessments and environmental impact statements;
- (3) Add a provision requiring the Department of Land and Natural Resources to adopt interim rules by January 1, 1991, which, upon their effective date, will supersede the ocean recreation management rules adopted by the Department of Transportation as they relate to Kaneohe Bay;
- (4) Require the Department of Land and Natural Resources to complete the master plan for the bay by January 1, 1992;
- (5) Authorize the Department of Land and Natural Resources to enter into joint federal/State partnership arrangements for the protection and preservation of the bay; and
- (6) Identify the sum to be appropriated as \$50,000.

Your Committee on Tourism, Recreation and Planning is in accord with the intent and purpose of S.B. No. 3306, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3306, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

**SCRep. 2297 (Joint) Tourism, Recreation and Planning and Government Operations on S.B. No. 2919**

The purpose of this bill is to provide the counties with increased revenue generating capabilities.

Specifically, the bill repeals the State's transient accommodations tax (TAT) and authorizes the various counties to enact their own TAT's up to nine percent. In addition, the State would transfer to the counties the portion of the public service company tax paid by public utilities which is in excess of four percent of their gross incomes. The bill also includes an appropriation of \$170 million to the counties to account for revenues which would have been received if the tax transfer provisions of this measure, which are scheduled to go into effect on July 1, 1991, were to be effective on July 1, 1990.

Your Committees believe that the counties need more revenues and agree with the Tax Review Commission that they should be able to derive revenues from the TAT. However, Your Committees have a different approach to accomplishing this objective and have therefore amended this bill by deleting its contents and inserting substantive material which:

- (1) Articulates that the purpose of the bill is "to share with the counties revenues enuring to the State pursuant to chapter 237D, Hawaii Revised Statutes;"
- (2) Amends the definition of "gross rental" or "gross rental proceeds" in section 237D-1 to exclude taxes imposed by chapter 237D (TAT). In so doing, your Committees intend to eliminate the pyramiding of the TAT, also known as the "5 on 5", whereby the five percent TAT passed on to the customer is subsequently included in the operator's gross income and taxed at the rate of five percent, making the effective tax rate 5.25 percent;
- (3) To compensate for the reduction in revenues resulting from amendment (2), raises the TAT basic rate from five percent to 5.25 percent;
- (4) Adds a new section to chapter 237D providing that sixty percent of TAT revenues shall be retained by the State and used for the convention center, tourism promotion, and other tourism-related activities, while the other forty percent shall be made available for appropriation to the counties for improvements to infrastructure and other tourism-related activities;
- (5) Adds a new section to chapter 37 requiring the Director of Finance to establish a separate special account in the treasury into which shall be deposited each year forty percent of the past fiscal year's TAT revenues. Beginning with the budget for fiscal year 1992-1993, the governor shall include this amount in each budget and supplemental budget for appropriation by the legislature to the counties and, if not appropriated, these funds shall accumulate and be available for subsequent legislative appropriations to the counties;
- (6) Provides an appropriation of \$75,000 for fiscal year 1990-1991 to the Department of Budget and Finance to implement the provisions of the bill;
- (7) Requires the Director of Finance, in consultation with the Director of Taxation, to submit a report of actions, findings, and recommendations relating to the implementation of the provisions of this bill to the 1991 legislature; and
- (8) Gives the bill an effective date of July 1, 1990.

Your Committees wish to strongly emphasize that the TAT increase from five percent to 5.25 percent does not represent a tax increase, but merely makes appropriate adjustment for elimination of the TAT pyramiding.

Your Committees on Tourism, Recreation and Planning and Government Operations are in accord with the intent and purpose of S.B. No. 2919, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2919, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committees except Senators Menor, Yamasaki, Ikeda, Nakasato and George.

**SCRRep. 2298 (Joint) Human Services and Health on S.B. No. 2906**

The purpose of this bill is to: (1) amend chapter 42 procedures for the review of grants, subsidies, and purchases of service; (2) clarify the responsibility of the Department of Budget and Finance (B&F) with respect to the budgeting process; (3) prevent unnecessary delays in contract execution and payment; (4) establish a mechanism for the automatic review by the legislature of all requests which have been deleted from the executive budget; and (5) establish a mechanism for the continuous review of the chapter 42 process.

Your Committees are disturbed primarily by repetitive delays in contract execution and payment, and seek to address the problems inherent in Chapter 42 procedures. While recognizing that some management issues may be involved, your Committees have amended the bill to include a five-year interim measure for successive contracts to reduce the problem of late payment.

Your Committees have also added language expressly requiring the director of finance to review the state budget pursuant to the provisions of Section 37-67, Hawaii Revised Statutes. This section, in part, requires the Director of Finance to analyze and revise as necessary the program objectives, long-range plans, program and financial plans, program budget requests and program performance reports proposed by the state agencies. These plans and requests include funding for grants, subsidies, and purchases of service. Your Committees believe that emphasizing the role of the Department of Budget and Finance in the review of state budget requests will ameliorate some of the problems in the Chapter 42 process.

Your Committees have also amended the bill as follows:

- (1) Provided for advisory committees to meet annually, rather than bi-annually as previously proposed;
- (2) Provided for a July 31, 1995 repeal date for those sections of the bill establishing the advisory committee and biennial review by the legislative auditor;
- (3) Deleted the definition of "renewal" and all references to this term throughout the bill;
- (4) Deleted minimum requirements for current recipients or providers applying for the same services in a different fiscal year and inserted language requiring the submission of a limited number of documents instead;
- (5) Deleted the requirement that B&F exempt sole-source providers from bidding requirements and inserted language in the purpose clause urging the adoption of appropriate rules;

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