Hawaiʻi State Association of Counties (HSAC)
Counties of Kauaʻi, Maui, Hawaiʻi and City & County of Honolulu
74-5044 Ane Keohokalole Highway, Building A, Kailua-Kona, HI 96740

AGENDA

HSAC EXECUTIVE COMMITTEE MEETING
Monday, September 11, 2017, at10 a.m. or soon thereafter
Honolulu Hale, Committee Meeting Room
530 South King Street
Honolulu, Hawaii 96813

I. CALL TO ORDER

II. APPROVAL OF AGENDA

III. MINUTES

A. Minutes of the July 31, 2017 HSAC Executive Committee meeting
B. Minutes of the August 10, 2017 HSAC Executive Committee meeting

IV. REPORTS

A. Treasurer's Report
   1. Treasurer's Report for July 2017

B. County Reports
   1. City and County of Honolulu Report
   2. County of Hawaii Report
   3. County of Kauai Report
   4. County of Maui Report

C. National Association of Counties (NACo) Report

D. Western Interstate Region (WIR) Report

V. OLD BUSINESS

A. A Resolution To Acknowledge The Importance Of Maintaining Critical Federal Programs For The Native Hawaiian Community

B. Special Legislative Session Update

VI. NEW BUSINESS

A. Discussion of 2018 HSAC Legislative Package Items

a. Maui: Council Member Stacy Crivello to update and/or report

i. A Resolution Re: A State Bill To Increase The State Minimum Wage To $15.00 Per Hour For Employers With 26 Employees Or More Beginning January 1, 2021 And For Employers With 25 Employees Or Less Beginning January 1, 2023.

ii. A Resolution Re: A State Bill To Increase Revenue For Each County's Affordable Housing Fund Through A One Percent Conveyance Tax.
iii. A Resolution Re: A State Bill To Require Online Travel Companies And Other Transient Accommodations Remarketers To Pay Transient Accommodations Tax On Their Respective Portions Of Gross Rental Proceeds From The Payment Of Accommodations.

b. Kauai: Council Member Derek Kawakami to update and/or report. Pending Kauai County Council meeting on September 6, 2017

i. Relating To Transient Accommodations Tax. Removes The Cap For Distribution Of Transient Accommodations Tax Revenue To The Counties.
ii. Relating To Fire Sprinklers. Establishes A Tax Credit Of 25 Percent Of The Total Cost, Including Installation, Of An Automatic Fire Sprinkler Or Automatic Fire Sprinkler System In Any New Detached One Or Two-Family Dwelling Unit In A Structure Used Only For Residential Purposes. Sunsets On June 30, 2026.
iii. Relating To Taxation. Provides A Taxpayer Who Hires An Individual With A Disability A Nonrefundable Tax Credit For The Six-Month Period After The Individual Is Initially Hired By The Taxpayer.
iv. Relating To Taxation. Provides A Taxpayer Who Hires An Elderly Individual A Nonrefundable Tax Credit For The Six-Month Period After The Individual Is Initially Hired By The Taxpayer.
v. Relating To Zoning. Clarifies County Zoning Authority By Distinguishing Single Family Residential Use From Single-Family Vacation Rental Use And Allowing Amortization By Ordinance For Single Family Transient Vacation Rentals Over A Reasonable Period.

c. 2017 Legislative Package items for inclusion of the 2018 HSAC Legislative Package
i. A Bill For An Act Relating To Tort Liability
ii. A Bill For An Act Relating To Transient Accommodations Tax
iii. A Bill For An Act Relating To Unadjudicated Traffic Fines
iv. A Bill For An Act Making An Appropriation For Emergency Medical Services
v. A Bill For An Act Relating To Unmanned Aerial Vehicles
vi. A Bill For An Act Relating To Community Meetings
vii. A Bill For An Act Relating To Government Records
viii. A Bill For An Act Relating To Collective Bargaining
ix. A Bill For An Act Relating To Important Agricultural Lands
x. A Bill For An Relating To Identification Cards For Persons With Disabilities

B. HSAC Post-Conference Wrap-Up/Pre-Conference Planning Event Discussion

VII. ANNOUNCEMENTS

A. Scheduling the next meeting

B. Other announcements

VIII. ADJOURNMENT

MINUTES

HSAC EXECUTIVE COMMITTEE MEETING
Monday, July 31, 2017
Honolulu Hale, Committee Meeting Room
530 South King Street
Honolulu, Hawaii 96813

I. CALL TO ORDER

The HSAC Executive Committee was called to order by HSAC President Dru Kanuha at 11:40 a.m. The following members comprising a quorum were present:

County of Hawaii:	President Dru Kanuha Councilmember, Hawaii County Council
County of Kauai:	Vice President Derek Kawakami Councilmember, Kauai County Council
County of Maui:	Secretary Stacy Crivello Presiding Officer Pro Tempore, Maui County Council
City and County of Honolulu:	Treasurer Ikaika Anderson Councilmember, Honolulu City Council
Others Present:	Council Chair Mel Rapozo, Kauai County Council Council Chair Mike White, Maui County Council Councilmember Riki Hokama, Maui County Council Leinani Wessel, Council Aide to Councilmember Dru Kanuha, Hawaii County Council Aida Kawamura, Legislative Assistant, Office of Council Services, Kauai County Council Brandon Mitsuda, Administrative Support Services, Honolulu City Council Francisco Figueiredo, Office of Councilmember Ikaika Anderson, Honolulu City Council Todd Swisher, Legislative Analyst, Office of Council Services, Honolulu City Council Carla Nakata, Legislative Attorney, Office of Council Services, Maui County Council Scott Ishikawa, Senior Account Executive, Becker Communications, Inc.

II. APPROVAL OF AGENDA

Treasurer Anderson moved to amend Section 18 of the Bylaws to change the word "shall" to "may," so that the Section reads:

> SECTION 18. The corporation is not a "board" under chapter 92, Hawai`i Revised Statutes (HRS), having been created by other than the "constitution, statute, rule, or executive order." The corporation, however, in the conduct of its business, [shall] <u>may</u> comply with the procedures and requirements set forth under chapter 92, HRS.

Vice President Kawakami seconded the motion. President Kanuha noted the meeting agenda had not been posted at the meeting site six days prior to the meeting. Honolulu staff contacted the Office of Information Practices to confirm the meeting could proceed. Because HSAC is not a board for purposes of the Sunshine Law, and is not bound by the Sunshine Law other than through its Bylaws, the motion was made to amend the Bylaws to allow the meeting to proceed. The motion was unanimously carried.

There being no objections, the agenda was approved as circulated.

III. MINUTES

A. Minutes of the June 19, 2017 HSAC Executive Committee meeting

Treasurer Anderson moved to approve the Minutes as circulated. The motion was seconded by Vice President Kawakami and unanimously carried.

IV. REPORTS

A. Treasurer's Report

1. Treasurer's Report for June 2017.

Treasurer Anderson reported that HSAC started the month of June with a balance of $164,607,06 and had expenses of $7,796, leaving an ending balance of $156,813.69. See attached worksheet for additional information.

The Executive Committee thanked Kauai (Council Chair Rapozo and staff Aida Kawamura) for a good conference, raising revenues, and a job well done. Vice President Kawakami moved to approve the Treasurer's Report for June 2017. The motion was seconded by Secretary Crivello and unanimously carried.

B. County Reports.

1. City and County of Honolulu Report. Treasurer Anderson provided the attached update on Honolulu City Council meetings and events.

2. County of Hawaii Report. President Kanuha reported that on June 23, 2017, the Hawaii County Council passed a resolution increasing the fuel tax rate. The new rate takes effect August 1, 2017, and will be 15 cents per gallon (previously 8.8 cents per gallon). It is anticipated to generate about $4.5 million for the current fiscal year. He said the Council took a tiered approach, with the fuel tax rate increasing to 19 cents for the following fiscal year, then to 23 cents per gallon the year after. The fuel tax will bring in much needed revenue. He said on July 7, the Council authorized the County to enter into a sister-city relationship with Cabugao in the Philippines. The Council sent to the Environmental Management Commission changes to legislation concerning Styrofoam food containers and food service ware. He said Hawaii County has been undergoing repairs to Kona water wells. Because of maintenance problems, there had been a 25-percent mandatory restriction on water use in the Kona area. They are trying to upgrade the wells as soon as possible. On July 18, the Council amended the Hawaii County Code to comply with National flood insurance program regulations.

3. County of Kauai Report. Vice President Kawakami reported upwards of $90,000 in revenue was raised from the HSAC Conference. He said Kauai has already circulated an internal timeline for legislative priorities for HSAC.

4. County of Maui Report. Secretary Crivello reported the Maui County Council's Infrastructure and Environmental Management Committee is working on a proposed moratorium on sand mining. She noted the Council's Policy, Economic Development, and Agriculture Committee is beginning to consider a recent Charter amendment allowing the Council to establish by ordinance additional qualifications for administrative heads appointed by the mayor. She said a resolution has been proposed to urge the Mayor to allow an additional deferred compensation plan for County employees.

   Treasurer Anderson made a motion to receive the reports. Secretary Crivello seconded the motion, which was unanimously carried.

C. National Association of Counties (NACo) Report.

- July 21-24, 2017 NACo Annual Conference – Franklin County, Ohio

Councilmember Hokama reported that the content of the annual conference was solid. President Kanuha has been appointed an at-large director. By National

Bylaws, all past presidents continue to serve as board directors until they leave County service. With Councilmembers Arryl Kaneshiro from Kauai and Councilmember Ikaika Anderson from Honolulu, the State of Hawaii has four directors on the NACo board (including past president Hokama). Next year the conference will be held in Nashville, Tennessee. There is a board meeting in December in Tarrant County, Texas, for board directors. The National Council of County Association Executives has extended an invitation to Hawaii to be the conference site of choice for 2019. About 150 people would attend. Any county could be the host. He said it might be a good time for Hawaii to consider whether it wants to have an executive director. NACo is willing to consider Hawaii as an associate member. Key committees will be Transportation (aviation reauthorization) and Water (farm bill and water bill).

The motion to receive the report was unanimously carried (individuals making and seconding the report were inaudible).

D. Western Interstate Region (WIR) Report.

President Kanuha said the WIR Fall meeting will be held in Wyoming in October. He encouraged other members to attend the WIR conferences. He asked whether the Executive Committee wants another person from Hawaii on the WIR board of directors. Secretary Crivello said that may be an issue for posting on the next HSAC Executive Committee meeting agenda. Vice President Kawakami said it was a good point to bring Hawaii's issues, such as sea level rise, to WIR.

Secretary Crivello made a motion to receive the report, which was seconded and unanimously carried.

E. Communications Report – Scott Ishikawa – Becker Communications

Mr. Ishikawa distributed an outline of his proposed media communications strategy and timeline for the 2018 State legislative session. He suggested focusing on three or four top legislative priorities. A copy of his proposal is attached. He said that because some bills did not die, lobbying can begin in October or November. He said he would await feedback on the upcoming Special Session. President Kanuha said Mr. Ishikawa was hired to help HSAC with communications and media this past year. Vice President Kawakami noted the Becker Communications draft strategy needs to be flexible because the Executive Committee still needs to identify priorities, and new pieces of legislation may be developed. Councilmember Hokama said he believed emphasis should be given to online communications to get the message out. Council Chair White noted the lifeguard liability measure and the transient accommodations tax and rail funding are big issues. He said every one percent increase in TAT would take away about $26.7 million from the Big Island, Kauai, and Maui economies, and bring it to Honolulu. Treasurer Anderson said he understands the neighbor island position on rail funding. Secretary Crivello said there may be other legislative considerations from the counties. She said the body needs to decide how the Facebook account and HSAC website will be maintained moving forward. Councilmember Hokama said community television allows free five-minute public service announcements on Maui and asked whether Special Session issues could be communicated in this manner.

Treasurer Anderson moved to receive the report. The motion was seconded by Vice President Kawakami and unanimously carried.

V. NEW BUSINESS

A. Nationwide's consideration to submit proposals to provide services for all counties.

Secretary Crivello said a decision needs to be made whether this is something the individual counties want to pursue or whether HSAC should talk to the mayors. She said Maui County has proposed a resolution to request its Mayor to seek opportunities for an additional deferred compensation plan. It was noted that Kauai is considering whether this is something they can do, and that Honolulu already offers a separate deferred compensation plan (not Nationwide). Councilmember Hokama cautioned care should be taken in structuring a proposal and that procurement laws would need to be followed. If an entity comes in and does a presentation, there is a potential to disqualify that entity from bidding. The Executive Committee decided to keep this matter on the agenda for further discussion.

B. 2018 HSAC Legislative Package.

President Kanuha said there are continued considerations from 2017. Secretary Crivello noted unfunded liabilities may be a good consideration for next legislative session. President Kanuha asked about a schedule for introducing measures for the 2018 package. Secretary Crivello said HSAC should not wait until the Legislature gets back in session. She asked whether ERS and unfunded liabilities will occupy next session. Vice President Kawakami said for the bills that are still alive, HSAC may want to reintroduce them and get new bill numbers, and start reaching out to advocates.

C. Hawai`i State Legislature Special Session relating to the transient accommodations tax (TAT).

The Special Session has been announced for August 28 through September 1, 2017. President Kanuha opened the discussion on how HSAC would address the Special Session. Secretary Crivello said the body should decide how involved it will get in the Special Session and expressed some urgency in the decision.

Council Chair White provided the attached report from the University of Hawaii Economic Research Organization (UHERO), dated March 8, 2017, entitled "Is Hawaii's Hotel Room Tax Law Obsolete?" The article discusses the State's suit against online travel companies and urges a re-examination of the State's TAT law. He said there are some states that have redone their room tax laws. When you go onto Expedia or another travel company's site, they will charge the same amount the hotel charges, but will keep the TAT and pay the GET. He suggested HSAC consider asking the State Legislature to rewrite the TAT law to include remarketers. He noted concern over a proposal to increase the TAT by 2.75 percent. Council Chair White summarized some historical TAT data, including TAT collections for 2015 through 2017. He said the counties in the State receive the smallest share of tax revenues on hotel lodging of anywhere in the country. He said perhaps the State might look at the option of a restaurant tax instead of increasing TAT.

President Kanuha asked whether these things would be valid considerations during a Special Session. Vice President Kawakami said emergency appropriations for the Hawaii Health Systems Corporation were considered during the Special Session on marriage equality, so members of the House and Senate might want to see other issues thrown in. From a revenue side, it might be something to ponder. Council Chair White said he believed HSAC needs to go into the Special Session with a very strong position.

The Executive Committee said it was difficult not knowing exactly what would be proposed during the Special Session. Vice President Kawakami said it appeared the Executive Committee would be deliberating on an official position for the Special Session. Secretary Crivello said the counties had not taken an official position on the general excise tax extension, just on the TAT. Secretary Crivello said she sees reauthorizing the GET as a means for Honolulu to support the rail. President Kanuha said the Executive Committee should keep Scott Ishikawa posted on any position the counties take. Secretary Crivello said she wants not to have to use the neighbor islands' share of TAT to fund rail.

Council Chair Rapozo said HSAC previously supported the task force recommendation. He said the only thing HSAC can lobby for is what was passed in the package, so just the TAT and lifeguard liability, because GET was not in the package. He said the Bylaws do allow the Executive Committee to act on anything that affects home rule or revenues, so HSAC's position could probably expand to include that, but to be careful, especially with GET, because all the counties are different. He said the Executive Committee will probably need to know today whether HSAC will aggressively pursue the Special Session. Council Chair Rapozo questioned whether to take out a full-page ad to identify legislators who did and did not support the counties' efforts. He said it may be simplest to use a sales tax. Council Chair White distributed calculations on tax generation and distribution to the State and County. He said the UH Maui

College might serve as a resource to help with some statistics. Councilmember Hokama said HSAC may want to consider using NACo's County Explorer program and perhaps Dr. Estrada with the NACo Research Office.

Vice President Kawakami said he would like to see HSAC take a position on the extension of the general excise tax to fund rail. Treasurer Anderson said it seems the options to fund rail right now are either to extend the existing GET surcharge for a certain number of years, or a combination of the GET extension and TAT. He noted it has also been said that the Legislature is looking at funding the rail strictly through TAT. It's been the position of the Honolulu City Council that the fairest and most equitable way to fund rail construction is through a GET extension. He said this is not a tax increase, but an extension of an existing tax Honolulu is already paying. He noted this is not a project that the other islands would benefit from. But he feels HSAC needs to see what the Legislature is proposing definitively before it figures out a position. Secretary Crivello said she likes the idea of supporting the extension of GET and leaving the TAT alone. She asked whether there would need to be a special meeting if the Executive Committee wants to come out with a position on the GET. Council Chair White said it may make some sense to have a position on both the extension of the GET and opposing the increase of the TAT. He noted the rail does not go to Waikiki either, so it may not make sense for TAT to support it. Treasurer Anderson said the only reason he has heard for using the TAT for rail is because visitors do not vote. Council Chair White said anything that increases the price of the room has to go on the web, whereas the same does not apply to restaurant taxes.

Vice President Kawakami said the difficult thing is that there is no known agreement on the Special Session. Council Chair White said we need to go back and find out the respective delegations' positions. President Kanuha said right now HSAC does not have a position on the GET. Vice President Kawakami said he has heard a lot of different proposals, and asked where that puts HSAC. He suggested the representatives go back to their delegation and House and Senate leadership to find out their positions. President Kanuha said the body should try to find a good date to come back together prior to the Special Session, and in the meantime representatives should go back to their individual counties and talk with House and Senate representatives.

Treasurer Anderson said he would like to ask his colleagues on the Honolulu City Council to support a resolution requesting HSAC support of the GET surcharge extension to support rail funding, but he wanted to make sure the Executive Committee is okay with that before he does. Secretary Crivello said she does not have a problem with that. Council Chair White asked whether he wanted the other councils to consider similar resolutions. Treasurer Anderson said he wasn't sure whether the other councils would want to see something from Honolulu before they go on record. He said he would propose a resolution at the next Council meeting and asked Honolulu staff to draft a resolution.

Council Chair White asked if he could give Maui a draft that Maui could consider posting for its next Council meeting. President Kanuha asked that the draft resolution be sent to the other HSAC representatives so that each council could do what they want with it.

VI. UNFINISHED BUSINESS

A. 2017 Legislative Update and Plan for Lobbying Efforts (Bills still alive for next session)

President Kanuha said the Executive Committee will be talking about the lifeguard bill. He said this past session Councilmember Victorino was part of the lobbying effort. The Executive Committee discussed whether they wanted a paid lobbyist moving forward. Secretary Crivello noted she did not think a paid lobbyist is warranted at this time. Vice President Kawakami agreed. Council Chair White said perhaps HSAC should work in the direction of hiring an Executive Director stationed on Oahu who could follow the legislative session on a continual basis. President Kanuha agreed.

B. Status of Senate Concurrent Resolution 77, requesting the establishment of a bona fide agricultural producer task force to create a definition for the term bona fide agricultural producer, which was adopted by the Senate and the House of Representatives.

Secretary Crivello noted Maui is still trying to define agriculture. She asked how the other counties handle this. Vice President Kawakami said he thinks that is the definition they have been asking for from the State for quite some time.

C. Correspondence from U.S. Senator Mazie Hirono, relating to a draft resolution for consideration regarding potential cuts to federally funded Native Hawaiian programs and to strengthen these programs.

The Executive Committee discussed the status of this request and noted it is up to each Council to determine whether they support the resolution. The Committee received the attached correspondence dated May 12, 2017, from the Office of the County Attorney for Kauai County stating "the draft resolution would be legal according to the legal tenets governing resolutions." President Kanuha said there are a lot of specifics in the resolution dealing with Native Hawaiian programs. It appears the concern in the resolution is with taking money away from Native Hawaiians and giving it instead to Native Americans.

Secretary Crivello moved to support the resolution. Vice President Kawakami seconded the motion, and the motion was unanimously carried. He said the resolution would be sent to each individual Council for their information.

VII. ANNOUNCEMENTS

A. Scheduling the next meeting.

The next meeting is scheduled for Thursday, August 10, 2017, at 10:00 a.m., at Honolulu Hale.

B. Other announcements.

There were no other announcements.

VIII. ADJOURNMENT

The meeting was adjourned at 2:05 p.m.

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Hawaii State Association of Counties
REVENUES COLLECTED AND EXPENSES PAID
Period June 1 through June 30, 2017

	May 2017	June 2017	FY 2017 Year to Date	FY 2017 Budget	
BEGINNING BALANCE					$164,607.06
REVENUES					
Membership Fees	$0.00	$0 00	$43,680 00	$43,680.00	
Conference Income	$0 00	$0 00	$19,168 26	$18,000.00	
Interest Income	$2.92	$2 63	$27 81	$28 00	
Corporate Sponsorship	$0 00	$0 00	$0.00	$0.00	
Miscellaneous	$0 00	$0 00	$9 73	$0 00	
NACo Prescription Drug	$542.00	$0 00	$3,063 60	$6,000.00	
Fund Balance, prior FY			$0 00	$107,164 00	
Total	$544 92	$2 63	$65,949.40	$174,872 00	
Total Receipts This Period					$2.63
EXPENSES					
HSAC					
Executive Committee Travel-Air Ground Lodging & Membership	$2,705.29	$1,007 40	$15,407 67	$17 600 00	
Auditing Services	$0.00	$0 00	$4,166 67	$5 000.00	
Stationery	$0.00	$0 00	$726 21	$150.00	
Miscellaneous	$588.29	$0 00	$10,712 78	$2 000 00	
Online Quickbooks Monthly Fee	$41.75	$41 75	$499 80	$500.00	
Special Committees					
Travel	$0.00	$0 00	$0 00	$500.00	
Miscellaneous	$0.00	$0 00	$0 00	$100 00	
			$0.00		
NACo					
Board Travel-Air Ground and Lodging	$4,076.19	$1,505 18	$17,313 19	$20 000 00	
Steering Committees Travel-Air Ground & Lodging	$0.00	$0 00	$0 00	$6 000.00	
Promotional	$0.00	$0 00	$0.00	$250 00	
Dues	$3,507 00	$0.00	$30,258 00	$27 268 00	
Miscellaneous	$0 00	$0 00	$3,442 20	$1 000 00	
WIR					
WIR Travel-Air, Ground and Lodging	$0.00	$0 00	$1,953 57	$10,500.00	
WIR Promotional	$0.00	$0 00	$0 00	$0.00	
WIR Dues	$0.00	$0.00	$0 00	$3,804.00	
WIR Miscellaneous	$0.00	$0 00	$0.00	$1,000.00	
WIR 2015 Conference	$0.00	$0 00	$0 00	$0.00	
OTHER					
Adjustments for Travel and Related Expenses	$0 00	$0 00	$0 00	$6,295 00	
National Conference Fund	$0.00	$0 00	$0 00	$44,000.00	
Prescription Drug Scholarship Program	$0.00	$0 00	$0 00	$6,500.00	
County Leadership Institute Attendee	$0.00	$0 00	$0 00	$3,000 00	
Prescription Drug Promotion	$0.00	$0 00	$0 00	$5,000 00	
HSAC Promotion	$1,500.00	$5,241.67	$14,868 96	$11,505.00	
Total	$12,418 62	$7,796 00	$99,349 05	$171,972.00	
Total Expenses This Period					$7,796.00
ENDING BALANCE					$156,813.69

To: The Honorable Ikaika Anderson, Treasurer
From: Brandon Mitsuda, Council Liaison
Date: July 31, 2017
Re: Honolulu Report
Hawaii State Association of Counties Executive Committee Meeting

Update on Honolulu City Council Meetings

- The Honolulu City Council at our last Full Council Meeting on July 12, 2017 passed on Third Reading **Bill 59 (2016), FD1, CD3:** Relating to the use of bags provided to customers. (Regulating the use of bags provided to customers.)

- The Honolulu City Council at our last Full Council Meeting on July 12, 2017 passed on Third Reading **Bill 43, CD1:** Relating to the maintenance of channels, streambeds, streambanks and drainageways. (Amending the conditions under which a private stream owner is held to maintain, dredge and clear such stream.)

- The Honolulu City Council at our last Full Council Meeting on July 12, 2017 passed on Third Reading **Bill 79 (2015), CD2:** Relating to the Land Use Ordinance. (Making miscellaneous amendments to the Land Use Ordinance.)

- The Honolulu City Council at our last Full Council Meeting on July 12, 2017 passed on Third Reading **Bill 67:** Relating to curb ramps. (Preserving access to curb ramps designed for use by persons with disabilities.)

- The Honolulu City Council at our last Full Council Meeting on July 12, 2017 passed on First Reading **Bill 68:** Relating to special transit service. [Clarifying the operations of the City's special transit service (The Handi-Van) and establishing policies for improved and efficient operations of special transit services in the City and County of Honolulu.]

Update on Honolulu City Council Projects and Events

- The Honolulu City Legislative Branch has begun preparations for the 2017 Honolulu City Lights Celebration that showcases the Holiday Spirit here at Historic Honolulu Hale.

BECKER
COMMUNICATIONS ◇ INC
ONLINE, OFFLINE AND INLINE WITH YOUR GOALS

HAWAII STATE ASSOCIATION OF COUNTIES (HSAC)
Media Communications Strategy/Timeline
(Summer 2017 – May 2018)

OVERARCHING POSITIONING STATEMENT:
During each legislative session, the Hawaii State Association of Counties (HSAC) submits measures in hopes of improving the quality of life for residents across the state. All measures presented before this upcoming legislative session are meant to provide the following:

- Maximize the effectiveness and performance of the county governments;
- Enhance the fiscal health of our county-level governments, and in turn;
- Benefit the taxpayers by avoiding the need for future increased taxes and user fees to make up for unnecessary deficits.

GOALS:
1. Lobby the state Legislature to approve HSAC-related measures
2. Build groundswell of public support using a variety of communications tactics
3. Enable and encourage public advocacy among existing supporters
4. Attain our legislative goals as ONE entity; not allowing outside forces to divide and conquer us

TOP LEGISLATIVE PRIORITIES:

Here are the suggested HSAC issues to have media and public focus on:

1) Fairer TAT distribution between state and counties

2) Return of limited liability protection for county lifeguards

3) Additional ambulance services for Kauai and Hawaii Island

TIMING	ACTIVITY / DESCRIPTION

July through September 2017
 	
(Determination of legislation for submittal during 2017 session)
	Community Outreach:
	Determine organizations / business groups / unions to reach out to regarding speaking engagements and potential support for HSAC-related legislation:
	
	• Chambers of Commerce (COC)
	  o COC of Hawaii
	  o Hawaii Island COC
	  o Maui COC
	  o Kauai COC
	• Other major business associations on each island

	• Hotel industry
	  o Hawaii Tourism Authority
	  o Hawaii Lodging and Tourism Association
	
	• Unions
	  o HGEA
	  o UPW
	  o HSTA
	  o SHOPO
	  o Hawaii Fire Fighters Association
	  o Private unions
	
	Online Marketing and Communications:
	• Monthly E-Blast
	  o Draft editorial calendar for 2018 legislative session
	• Website
	  o Draft text for upcoming legislative session
	• Facebook
	  o Work with four counties on social media plan

October 2017 (Continual planning and scheduling)	**Editorial Solicitation:** • Begin scheduling editorial board meetings for December • Confirm speaking engagements to begin in late November/early December **Community Outreach:** • **Speaking engagements (October-early January)**
November 2017	**Community Outreach:** • **Speaking engagements (October-early January)** **Editorial Solicitation:** • Finalize schedule for editorial board meetings/media briefings
December 2017 (Pre-Legislative Session Coverage)	**Community Outreach:** • **Speaking engagements (October-early January)** **Editorial Solicitation/Scheduled Coverage:** **Interviews with respective neighbor island newspapers before the session (Early January):** • Big Island (Hawaii Tribune-Herald, West Hawaii Today) • Maui (Maui News) • Kauai (The Garden Island) **Line up potential signees for letters to editor throughout session**

	Press Release: • Finalize HSAC legislative press release for internal approval
January 2018 (Beginning of Legislative Session)	**Community Outreach:** • **Speaking engagements (October-early January)** **Editorial Solicitation:** **Hold editorial board meeting/briefings with Oahu media publications covering legislative session (early January):** <u>Suggested Media Organizations for Editorial Board Meetings:</u> • Honolulu Star-Advertiser (Lucy Young-Oda, Kevin Dayton, Sophie Cocke) Hawaii Public Radio (Wayne Yoshioka) • Civil Beat (Nathan Eagle) • Pacific Business News (Kam Napier) <u>Benefits of Meeting with the Editorial Board:</u> • They could assign a story to a reporter about topics discussed at the meeting. • They will come away from this meeting with a better understanding of HSAC's priorities. • It will improve the lines of communication between the two parties and provide an opportunity to gain a better understanding of the media's needs and deadlines. • They are less likely to publish future stories about the topic without first reaching out to get our reaction. • The editors might even be motivated to write an editorial about topics discussed. **Potential appearances on the following media outlets:** • KHON2 "Wake Up 2Day" • Hawaii Public Radio's "The Conversation" • Hawaii News Now's "Sunrise" show **Press conference/media availability at HSAC Open House** • Also make HSAC members available to media during first week of Legislative session (Jan. 15-19) **Press Release:** • Also release HSAC legislative agenda/objectives release during first week of 2017 legislative session **Letters To Editor:** • Start drafting third-party letters to editors

February 2018 (Mid-February – First Lateral)	**Legislative Deadlines/Benchmarks:** **Editorial Solicitation:** • Begin assigning letters to editors to third-parties for submission
March 2018 (Mid-session)	**Editorial Solicitation:** • Op-ed to island newspapers providing HSAC legislative agenda update • Make HSAC members available to media during committee hearings • Have third-party submit letters to editor during budget crossover
April 2018 (Crossover periods)	**Editorial Solicitation:** • Make HSAC members available to media during conference committee • Have third-party supporters submit letters to editor during crossover periods
May 2018 (Final vote on legislative measures, wrap-up of legislative session)	**Editorial Solicitation:** • Provide op-ed to each island daily newspapers at end of 2018 legislative session on HSAC progress report

# # #

UHERO
THE ECONOMIC RESEARCH ORGANIZATION AT THE UNIVERSITY OF HAWAI'I

Is Hawaii's Hotel Room Tax Law Obsolete?

MARCH 8, 2017

With tax collections falling behind expectations, State lawmakers are pressuring the tax department to increase effort to collect uncollected taxes from internet sales. In 2015 the State Attorney General's Office scored a "major" victory when the Hawaii Supreme Court ruled that online travel companies (OTCs) are required to pay Hawaii's general excise tax (GET) on their hotel bookings. Subsequently, the Tax Appeal Court ordered OTCs to pay $53.1 million in back general excise taxes plus interest to the state.

The State had also sued the OTCs for underpaying Hawaii's transient accommodation tax (TAT), also known as the hotel room tax.[1] That was a major loss for the Attorney General's Office. At issue in that suit was whether the OTCs should have been remitting TAT on the full retail price of the rooms they charge their consumers, or only the tax on the wholesale room rates (called net rates) that they pay to hotels for the rooms they contract with the hotels and resell to consumers. The State argued that OTCs should have been paying TAT on the full retail room rates; OTCs disagreed. The Hawaii Supreme Court (March 17, 2015) sided with the OTCs.[2]

Hawaii enacted its TAT in 1986. Hawaii's TAT is levied on the operator of transient accommodations. Hawaii Revised Statutes Chapter 237D states: the TAT is "assessed and collected each month…on the gross rental or gross rental proceeds received from furnishing transient accommodations. Every operator shall pay to the State the tax imposed by this section as provided in this chapter. An "operator" is "any person operating a transient accommodations whether as owner or proprietor or as lessee, sublessee, mortgagee in possession, licensee, or otherwise, or engaging or continuing in any service business which involves the actual furnishing of transient accommodation."

The Hawaii Supreme Court, basing its decision on the legislative history of the TAT, determined that "…a single operator is associated with the furnishing of transient accommodations…Here the hotels in the Assessed Transactions are acknowledged by all parties to be an operator within the meaning of the use of that term as provided by HRS & 237D-1; thus, for purposes of the TAT Assessments, only the hotels are operators in the Assessed Transactions. Therefore, the OTCs are not operators and the TAT is not applicable to the OTCs in the Assessed Transactions." That Hawaii lost so handily shouldn't have been surprising from the very beginning given the way the TAT statute was written.

[1] *In the Matter of Travelocity v. Dir. of Taxation*, 346 P.3d 157 (Haw. 2015)

[2] *In the Matter of Travelocity v. Dir. of Taxation*, 346 P.3d 157 (Haw. 2015)

The dispute between states and local governments in the U.S. and OTCs over the appropriate tax base for online lodging sales has been going on since at least 2004. According to the Tax Foundation, which keeps tabs on the ongoing litigations, as of February 2016, tax jurisdictions in 34 states and the District of Columbia have filed similar lawsuits against the OTCs; OTCs have won in 23 states and lost in 6 states.[3]

That OTCs have won most of the litigations is not surprising because in most cities and states hotel occupancy tax statutes were written before the advent of OTCs, and were not worded in a way that would allow state and local governments to prevail. Travelocity and Expedia didn't even exist before 1996.

Traditionally, hotel guests booked directly with hotels or with the assistance of travel agencies. Travel agencies acted as brokers and received a commission from the hotels. Under this "agency model" the hotel is the merchant of record. (The agency model is still in use by brick-and-mortar travel agencies and online travel companies.) The hotel guest paid his/her room rent to the hotel and not to the travel agency. Either way, what the hotel received from the guest was the same whether the booking was made directly with the hotel or through a travel agency. Typically, hotel occupancy tax statutes—including Hawaii's TAT--specify that the hotel room tax is some percent of the room rental revenues/price hotels received.

In the digital era, the relationship between hotels, guests and travel intermediaries changed as the OTCs found a more profitable business model. Under the "merchant model" OTCs are the merchants of record. They contract for rooms with hotels at wholesale rates (net rates), add their mark-up and "service fee and taxes" (bundled together) and resell them to customers. Hoteliers contract with OTCs to collect all the money, including applicable taxes. Consumers pre-pay their stay to the OTCs and not to the hotels. After check out, hotels invoice the OTCs; OTCs then pay the hotels the negotiated net rates and the taxes collected from the guest based on the net rate.

Thus, under the merchant model of distribution what a hotel guest pays to the OTC for the right to occupy the room and what the hotel receives from the OTC are not the same. Obviously, under traditional hotel occupancy tax statutes, taxes calculated on the net rates are lower than if they were calculated on the full retail rates paid by consumers. The same room booked by a hotel guest directly with a hotel will have a higher tax bill than one purchased from a merchant model OTC, assuming the rooms are sold at about the same price.[4]

For the consumer, the only price that matters is the total price charged by the OTC, inclusive of the net rate, mark-up, fees and taxes. If he/she does not pay the total price, he/she cannot occupy the room. Indeed, in 2014, the Wyoming Supreme Court ruled that OTCs' mark-ups were "services necessary to complete the sale" and hence part of the sale price subject to Wyoming's sales tax.[5]

[3] Tax Foundation, *Litigation Ongoing against Online Travel Companies for Hotel Occupancy Taxes*, February 17, 2016. Most of the law suits have been filed by cities.

[4] They are. See Michael Mazerov, *State and Local Governments Should Close Online Hotel Tax Loophole and Collect Taxes Owed*, Center on Budget and Policy Priorities, April 12, 2011. Agreements between hotel chains and OTCs tend to maintain price parity between the two channels of distribution.

[5] *Travelocity.Com LP, et al. v. Wyoming Department of Revenue*, Wyoming Supreme Court, No. S-13-0078, April 3, 2014, reported in Sales Tax Institute, "Online Travel Companies Liable for Tax on Total Amount Paid by Customers in Wyoming," April 7, 2014.

If one agrees that the appropriate tax base should achieve tax neutrality—i.e. the correct tax base should be the rental price paid by the hotel guest (excluding taxes)[6] regardless of how the room was purchased--then many existing hotel occupancy tax statutes should be rewritten.[7]

New York State did just that. In 2010 New York State revised its state sales tax statute to ensure that OTC mark-up and fees are fully taxed. Chapter 57 of the Laws of 2010 effective September 1, 2010 was enacted "to ensure that state and local sales taxes (sales tax) are paid on the full amount charged to customers by businesses such as Web-based travel companies (hereinafter room remarketers) for hotel occupancy in New York State."[8] The new law defines "*room remarketer* as 'a person who reserves, arranges for, conveys, or furnishes occupancy, whether directly or indirectly, to an occupant for rent in an amount determined by the room remarketer, directly or indirectly, whether pursuant to a written or other agreement'...Businesses, such as travel agencies, that reserve rooms on behalf of their customers and do not have the right to determine the amount of rent their customer pays for the room...are not room remarketers for purposes of this new law." Under the new law, a room remarketer is considered a hotel operator.[9]

New York State's law also applies to the hotel room occupancy tax imposed and administered by New York City requiring the hotel room occupancy tax in the City to be paid on the entire amount paid by consumers for a hotel room. Expedia filed a law suit against New York City, but the City won.[10]

In 2010 the District of Columbia also amended its lodging tax statute (Title 47 of the District of Columbia Office Code.) requiring online travel companies to pay sales tax on the total amount paid by consumers to online travel companies, including the retail margins.[11] Section 47-2202 (2) was amended to read as follows: "If the occupancy of a room or rooms, lodging, or accommodations is reserved, booked, or otherwise arranged for by a room remarketer, the tax imposed by this paragraph shall be determined based on the net sale or net charges received from the transient by the room remarketer." Net sale or net charges is defined as "the gross receipts from the sale of or charges for any room or accommodations received by a retailer from a room remarketer." The law was upheld by the D.C. Superior Court in 2012 and again by the D. C. Court of Appeals in 2015.[12]

[6] This would require the OTS to separate the "fees and taxes" on consumer bills.

[7] Mak, J. 2012. "What Should Be the Appropriate Tax Base for OTCs' Hotel Room Sales?" Pages 775-786 *Tax Analysts*. Tax Analysts, Falls Church, Virginia.; Mazerov, 2011; National Conference of State Legislatures, *NCSL Task Force on State and Local Taxation Principles for the Taxation of Online Travel Companies*, August 12, 2013.

[8] New York State Department of Taxation and Finance, Office of Tax Policy Analysis, Taxpayer Guidance Division, *Amendments Affecting the Application of Sales Tax to Rent Received for Hotel Occupancy by Room Remarketers*, TSB-M-10(10)S, Sales Tax, August 13, 2010; also Breen M. Schiller, "Mind the Gap: The Current Debate Between States & Municipalities and Online Travel Companies over the Taxability of the Remittance Gap," *Journal of State Taxation*, January-February 2011.

[9] New York State Department of Taxation and Finance, *A Guide to Sales Tax for Hotel and Motel Operators*, Publication 848 (2/15), p.9.

[10] Schiller, 2011; http://law.justia.com/cases/new-york/court-of-appeals/2013/180-1.html

[11] D.C. Law 18-364. Payment of Full Hotel Taxes by Online Vendors Clarification Act of 2010.

[12] www.taxrate.com, "Online Travel Companies Liable for D.C. Sales Tax, Again," July 24, 2015.

Likewise, in 2010 North Carolina amended its state sales tax statute—G.S. 105-164.4(a) (3)—effective January 1, 2011 to tax the gross receipts of "facilitators" (OTCs) at "applicable combined state and county sales tax rates."[13] The "sales price of the rental of an accommodation marketed by a facilitator includes charges designated as facilitation fees and any other charges necessary to complete the accommodation rental."

In 2003 the Oregon Legislature passed House Bill (HB) 2267 to establish a state lodging tax; then in 2013 the Legislature passed HB 2656 which "requires transient lodging providers and transient lodging intermediaries to collect and remit taxes computed on the total retail price paid for occupancy of transient lodging."[14]

According to the National Conference of State Legislatures, as of 2015, seven states—Georgia, South Carolina, North Carolina, New York, Minnesota, Wyoming and Oregon—and the District of Columbia require OTCs to pay taxes based on the full retail rates paid by consumers.[15] The amended statutes have generally survived legal challenges in their highest courts.[16] However, there are strong anti-tax sentiments in some parts of the U.S. Florida failed to pass similar legislation. Missouri passed legislation stating specifically that OTC mark-ups and fees are not taxable.[17] Indeed, the Tax Foundation advocates a federal law that would bar "discriminatory taxation of online travel company services."[18]

The National Conference of State Legislatures has developed a number of principles regarding the taxation of online travel companies, among them: "To ensure full collection of taxes that are due and to promote equity and fairness in tax code, states should consider requiring OTCs to remit taxes based on the rental price paid by the user."[19] Moreover, "To ensure that taxation is efficient, states should consider imposing any tax on online travel companies through statutory provisions and not through administrative regulation." Hawaii state lawmakers should re-examine the state's transient accommodation tax law and determine if it should be amended to take account of changes in the way visitor accommodations are distributed in the digital age.

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[13] Sales and Use Tax Division, North Carolina Department of Revenue, *Important Notice: Tax on Accommodations* at http://www.dornc.com/taxes/sales/impnotice1210.pdf

[14] Oregon Department of Revenue, *State of Oregon Lodging Tax Program*, 150-604-401 (Rev.01-17). A lawsuit filed by OTCs against the Oregon Department of Revenue was voluntarily dismissed in 2015.

[15] *The Baltimore Sun*, "Lawmakers stir travel industry furor over taxing online hotel bookings," March 28, 2015.

[16] Laws in Georgia, South Carolina and Wyoming survived challenges by the OTCs in their respective Supreme Courts.

[17] *Travel Weekly Daily Bulletin*, "New Missouri Law Says OTA Hotel Markups are Tax Free," July 13, 2012

[18] Tax Foundation, *Special Report 230*, February 2016; also, Tax Foundation, *Special Report No. 198*, Taxation of Online Travel Service, May, 2012.

[19] National Conference of State Legislatures, *NCSL Task Force on State and Local Taxation Principles for the Taxation of Online Travel Companies*, August 12, 2013.

COUNTY OF KAUAʻI

OFFICE OF THE COUNTY ATTORNEY

May 12, 2017

RECEIVED

'17 MAY 12 P3:44

OFFICE OF
THE COUNTY CLERK
COUNTY OF KAUAʻI

TO: Mel Rapozo, Council Chair

FROM: Mauna Kea Trask, County Attorney

RE: REQUEST FOR A LEGAL REVIEW OF PROPOSED RESOLUTION LANGUAGE
(Tracking No. 17-0678)

The Office of the County Attorney ("Office") is in receipt of your memorandum dated April 26, 2017, requesting a legal review of a draft resolution from Senator Mazie Hirono, relating to a collaborative method to address concerns regarding potential cuts to federally funded native Hawaiian programs. In your request you also indicated that it is your intent to share this legal review and after discussion with you it is my position that therefore this is not considered a confidential attorney-client communication under HRS§ 626-503 and you may share this communication.

After review it is the opinion of the Office that the draft resolution would be legal according to the legal tenets governing resolutions. Furthermore, the subject matter of the resolution is appropriate under state and federal law regarding the status of native Hawaiians and their special relationship with various governmental entities as an indigenous people under various state and federal statutes.

Please accept this information in response to your request and please contact me at (808) 241-4930 if you have any further questions.

MAUNA KEA TRASK
County Attorney

COUNTY COUNCIL
Mel Rapozo, Chair
Ross Kagawa, Vice Chair
Arthur Brun
Mason K. Chock
Arryl Kaneshiro
Derek S.K. Kawakami
JoAnn A. Yukimura

OFFICE OF THE COUNTY CLERK
Jade K. Fountain-Tanigawa, County Clerk
Scott K. Sato, Deputy County Clerk

Telephone: (808) 241-4188
Facsimile: (808) 241-6349
E-mail: cokcouncil@kauai.gov

Council Services Division
4396 Rice Street, Suite 209
Līhu'e, Kaua'i, Hawai'i 96766

MEMORANDUM

April 26, 2017

**CONFIDENTIAL
ATTORNEY – CLIENT
COMMUNICATION**

TO: Mauna Kea Trask, County Attorney

FROM: Mel Rapozo, Council Chair MR

RE: REQUEST FOR LEGAL REVIEW OF PROPOSED RESOLUTION LANGUAGE

I would like to request your assistance in providing a legal review of the attached resolution, which we received from Senator Mazie Hirono as a collaborative method to address concerns regarding potential cuts to federally funded Native Hawaiian programs. My intent is to share your legal review with the Hawai'i State Association of Counties Executive Committee to help us make an informed decision regarding the resolution.

A response by May 12, 2017 is requested. Should you have any questions, please feel free to contact me or Council Services Staff at 241-4188.

AMK:cy
Attachment

A RESOLUTION TO ACKNOWLEDGE THE IMPORTANCE OF MAINTAINING CRITICAL FEDERAL PROGRAMS FOR THE NATIVE HAWAIIAN COMMUNITY

Whereas, Native Hawaiians are the aboriginal, indigenous people who settled the Hawaiian archipelago as early as 300 A.D; and

Whereas, the land that now comprises the State of Hawai'i was once commanded by a monarchical government, established in 1810 under Kamehameha I; and

Whereas, the Kingdom of Hawai'i was recognized as an independent sovereign nation by foreign governments, entering in diplomatic relations with countries such as the United States; and

Whereas, western influence throughout the Kingdom of Hawai'i increased following first contact by Europeans in 1778, leading to devastating effects to the health, culture, and social conditions of Native Hawaiians; and

Whereas, the Kingdom of Hawai'i was illegally overthrown by a small group of non-Hawaiian residents of the Kingdom of Hawai'i, along with citizens of the United States in 1893, resulting in the abolition of the sovereign government of the Native Hawaiian community; and

Whereas, the Organic Act passed by Congress in 1900, established:

a. Hawai'i's territorial government; and
b. defined the political structure and powers, along with the special trust relationship between the United States and Native Hawaiians; and

Whereas, certain Ali'i, or chiefs, established perpetual trusts for the benefit of Native Hawaiians; and

Whereas, the Association of Hawaiian Civic Clubs was founded in 1918 by Prince Jonah Kuhio Kalanianaole, delegate to the United States House of Representatives, for the purpose of advocating for the improved welfare of Native Hawaiians in culture, health, economic development, education, social welfare, and nationhood; and

Whereas, in recognition of the depressed economic conditions of Native Hawaiians, Congress enacted the Hawaiian Homes Commission Act, 1920 which:

a. designated 200,000 acres of land for exclusive homesteading and agricultural pursuits by native Hawaiians; and
b. affirmed the trust relationship between the United States and the Native Hawaiian community; and

Whereas, on March 18, 1959 Congress established an Act to Provide for the admission of Hawai'i into the Union, dissolving the Territory of Hawai'i, and establishing the State of Hawai'i; and

Whereas, on August 21, 1959 President Eisenhower issued a presidential proclamation formally accepting Hawai'i into the Union; and

Whereas, in 1981 Congress instructed the Office of Education to submit a comprehensive report on the status of Native Hawaiian education; and

Whereas, the report released in 1983 and entitled the Native Hawaiian Educational Assessment Project confirmed:

a. Native Hawaiians scored below national benchmarks on standardized achievement tests; and
b. were disproportionately represented in many negative social and physical statistics, indicative of special educational needs; and
c. had educational needs that were related to their unique cultural situation; and

Whereas, in response to the failing health of Hawai'i's indigenous population, language contained in the 1984 Supplemental Appropriations Act directed the U.S. Department of Health and Human Services to conduct the first-ever comprehensive study of the health care needs of Native Hawaiians; and

Whereas, results of the 1984 study indicated that Native Hawaiian communities were at a severe health disadvantage as compared to other ethnic groups in the State of Hawai'i, prompting Congress to pass the Native Hawaiian Health Care Act in 1988 (renamed the Native Hawaiian Health Care Improvement Act, following reauthorization in 1992); and

Whereas, the Native Hawaiian Health Care Improvement Act authorized the Native Hawaiian Health Board, Papa Ola Lokahi, to carry out a master health care plan with programs related to health promotion, disease prevention, and primary care services for Native Hawaiians; and

Whereas, in 1988, Congress also passed the Native Hawaiian Education Act, addressing the unique educational needs of the Native Hawaiian community, along with the role of the federal government in empowering Native Hawaiian organizations to assist with those needs; and

Whereas, in 1993, 100 years after the overthrow of the Kingdom of Hawai'i, Congress enacted the Apology Resolution, in which it:

a. apologized to Native Hawaiians on behalf of the people of the United States for the overthrow of the Kingdom of Hawai'i; and
b. acknowledged the historical significance of that event, which resulted in the deprivation of the rights of Native Hawaiians to self-determination; and
c. urged the President of the United States to support reconciliation efforts between the United States and Native Hawaiians; and

Whereas, in 1996, the Native American Housing Assistance and Self-Determination Act (hereinafter referred to as NAHASDA) was passed in 1996, transforming the way American Indians and Alaska Natives were assisted in addressing affordable housing issues; and

Whereas, NAHASDA was amended in 2000 to include Title VIII, which addresses the housing and related community development needs of Native Hawaiians, providing affordable housing assistance to low-income Native Hawaiians eligible to reside on Hawaiian home lands; and

Whereas, the federal government has long recognized Native Hawaiians as a distinct indigenous group with which Congress has a special political, trust relationship similar to American Indian and Alaska Native groups, evident in the more than 150 enacted statutes aimed at improving the housing, health, education, and economic well-being of Native Hawaiians; and

Whereas, reauthorization of critically necessary Native Hawaiian programs:
a. is essential in helping to combat the devastating effects on the health, culture, and social conditions of Native Hawaiians; and
b. shows continued progress by the United States in its affirmation of the special trust relationship with the Native Hawaiian community;

Whereas, Congress recognizes that Native Hawaiians share all of the attributes and needs common to other indigenous peoples and are entitled to any and all benefits extended to such population; now, therefore,

Be it Resolved by the Hawai'i State Association of Counties that it supports the continuation of Native Hawaiian programs at the federal level to ensure:
a. continued provision of services by the United States to meet the special needs of Hawai'i's indigenous, Native Hawaiian population; and
b. an ongoing acknowledgment of the special political, trust relationship between the United States and the Native Hawaiian community.

Hawai'i State Association of Counties (HSAC)

Counties of Kaua'i, Maui, Hawai'i and City & County of Honolulu

MINUTES

HSAC EXECUTIVE COMMITTEE MEETING
Thursday, August 10, 2017
Honolulu Hale, Committee Meeting Room
530 South King Street
Honolulu, Hawaii 96813

I. CALL TO ORDER

The HSAC Executive Committee was called to order by HSAC President Dru Kanuha at 10:10 a.m. The following members comprising a quorum were present:

County of Hawaii:	President Dru Kanuha Councilmember, Hawaii County Council
County of Kauai:	Vice President Derek Kawakami Councilmember, Kauai County Council
County of Maui:	Secretary Stacy Crivello Presiding Officer Pro Tempore, Maui County Council
City and County of Honolulu:	Treasurer Ikaika Anderson Councilmember, Honolulu City Council
Others Present:	Council Chair Mike White, Maui County Council Councilmember Riki Hokama, Maui County Council Leinani Wessel, Council Aide to Councilmember Dru Kanuha, Hawaii County Council Aida Kawamura, Legislative Assistant, Office of Council Services, Kauai County Council Brandon Mitsuda, Administrative Support Services, Honolulu City Council Francisco Figueiredo, Office of Councilmember Ikaika Anderson, Honolulu City Council Kamakana Watanabe, Legislative Analyst, Office of Council Services, Honolulu City Council Carla Nakata, Legislative Attorney, Office of Council Services, Maui County Council Scott Ishikawa, Senior Account Executive, Becker Communications, Inc.

II. APPROVAL OF AGENDA

There being no objections, the agenda was approved as circulated.

III. REPORTS

A. Treasurer's Report

1. Treasurer's Report for June 2017.

   Treasurer Anderson reported that HSAC started the month of June with a balance of $164,607,06 and had expenses of $7,796, leaving an ending balance of $156,813.69. (The worksheet was provided at the July meeting.)

   Secretary Crivello moved to approve the Treasurer's Report for June 2017. The motion was seconded by Treasurer Anderson and unanimously carried.

B. County Reports.

1. City and County of Honolulu Report. Treasurer Anderson reported that at the Council meeting of August 9, the Honolulu City Council passed on second reading a bill relating to accessible curb ramps and a bill relating to special transit service. The Council passed on third reading a bill to establish a process for periodic review of certain city boards and commissions to determine whether the Charter provisions or ordinances establishing the board or commission should be retained, amended, or repealed. Also on third reading, the Council passed a bill to expand the commercial area subject to the City's prohibitions on sitting and lying on sidewalks in certain areas. The Council also passed a bill on first reading which allows the administration to set time limits on parking. They passed a bill relating to fire safety to require existing high-rise buildings to retrofit when determined necessary by the Honolulu Fire Department Chief to comply with certain safety standards. The bill was introduced in response to the catastrophic fire at the Marco Polo last month. The Mayor attended yesterday's Council meeting to request the bill relating to fire safety be moved forward. The Council also passed on first reading a bill relating to smoking to expand current ordinances to prohibit the use of electronic smoking devices as well as smoking in vehicles when a minor is present. The Council also passed a bill to urge the City administration to remove traffic bulb-outs from Chinatown. The Council also referred a resolution to the Committee on Executive Matters and Legal Affairs for discussion at the Committee's next meeting on August 22, asking the HSAC Executive Committee to support the City's position that a general excise surcharge remains the best and most

equitable option to fund Honolulu's rail system. He also noted the Council appreciates the support of the Maui County Council in moving a resolution forward supporting the GET extension.

2. County of Hawaii Report. President Kanuha said there is not too much to report since the last HSAC meeting. The Council supported a resolution to look into furthering a shooting range on Hawaii Island. As a rural community, there is support for not only hunting efforts, but places where police and federal agencies can train for the use of guns. Also, the County has been trying to enforce laws at parks and when they can be used. He said there has been an influx of homeless, mainly on the Kona side, which has proven troublesome for the community. They have been doing clean-ups to make sure parks can be used by all individuals. He said there are 75 or more people who have been removed from the parks. Nonprofits have been helping. The County will do full-time security in parks.

3. County of Kauai Report. Vice President Kawakami said yesterday Kauai got an update from their Washington DC consultant, Smith Dawson & Andrews. Kauai was successful in obtaining a big Transportation Investment Generating Economic Recovery (TIGER) grant that the County will be using to revitalize the Rice Street area, its urban area. The County is focusing on multimodal transportation at Rice Street. Kauai County is focused on rebuilding relationships in DC. He said the new way to approach appropriations and funding has been through grants, which is different from earmarks. They discussed some of the Mayor's priorities in DC, which include saving their post office, which is critical to the revitalization of the Rice Street area. Another issue is the potential FAA prioritization. They touched upon current Community Development Block Grant (CDBG) funding. Just to maintain what Kauai has in funding is considered a victory. They discussed the President's proposed budget cuts and how they might impact Kauai. They discussed how the Council could become more active in getting priorities heard in DC. He said the Administration is open to having voices heard.

4. County of Maui Report. Secretary Crivello reported the Council passed Resolution 17-125 to request the support of HSAC and its Executive Committee for the State Legislature's approval of an extension of the Honolulu general excise and use tax surcharge as necessary to enable the completion of a minimum operable segment of the Honolulu rail. The Office of the County Auditor released its plan of audits for FY 2018, to include the Charter-mandated Comprehensive Annual Financial Report (CAFR), county vehicle use, a peer review of the Office of the County Auditor, and a review of premium pay and overtime and County employee travel. The audit plan also includes as areas of consideration the cost of park facilities and grants. The Planning Committee is having

ongoing meetings on an update of the Molokai Community Plan. The Council's Parks, Recreation, Energy, and Legal Affairs Committee is conducting a review of the Waiehu Municipal Golf Course. Honolulu and Kauai representatives shared information and offered insights on their golf course operations. The Council authorized the Chair to contract for fiscal and performance audits of the Department of Fire and Public Safety and the County Department of Transportation.

5. Secretary Crivello made a motion to receive the reports. Vice President Kawakami seconded the motion, which was unanimously carried.

C. National Association of Counties (NACo) Report. Councilmember Hokama said there has been a lot of distraction at the Capitol right now with certain leaders making interesting statements. Other issues are aviation reauthorization, opioid abuse, and the Farm bill, which is a key component with language regarding the Safe Drinking Water Act. The NACo board will meet in Texas in December.

D. Western Interstate Region (WIR) Report. No updates.

IV. UNFINISHED BUSINESS

A. Discussion: Legislative strategies

1. 2018 HSAC's Legislative Package – to discuss time frame

President Kanuha said he recently sent out an email of the time frame.He said we currently have measures approved last year that will be brought back for incorporation this year. If there are any additional proposals, the councils should submit them to HSAC by September 8, 2017. Hawaii County has a Council meeting on September 7, so there might be a few items to include. September 29 is the deadline for the Executive Committee to forward proposals to each county for consideration. November 30 is the deadline for the counties to approve the proposed HSAC legislative package. Those 10 measures voted on last year will be included for discussion purposes this year. The Executive Committee will decide whether it wants to keep all 10. He asked that Executive Committee members make sure Councilmembers are aware of deadlines.

Council Chair White asked whether there was any thought of submitting a bill to subject the State Legislature to the Sunshine Law. Vice President Kawakami said he would be more in favor of Sunshine Law reform because it eliminates collaboration and fosters a hostile work environment.

President Kanuha noted a document had been distributed relating to the lifeguard liability issue. (*See,* attached document referencing Sections 662-1 and 662-16 of the Hawaii Revised Statutes.) Treasurer Anderson said he and staff met with Bob Toyofuku recently. According to Mr. Toyofuku, when a County lifeguard is performing any service related to their duty as a lifeguard on a State beach, that lifeguard is determined to be a State employee, so would be covered by the State in terms of any legal liability. Council Chair White asked whether clarification had been received as to whether the portion of a county park below the State high water mark would be considered a designated State beach park. Treasurer Anderson said no, that was not discussed. Council Chair White said there is only one State beach park in each County, so this doesn't really solve the issue. Treasurer Anderson said if the Executive Committee would like, he could invite Mr. Toyofuku to an HSAC meeting. The Executive Committee discussed the number of County beach parks they have. President Kanuha said it's hard to have one person derail the efforts of the councils and the mayors. Vice President Kawakami said the last two times we were able to extend the sunset date, he had introduced the legislation because on Kauai, they have Kee Beach. Kauai is always taking the lead in trying to repeal the sunset date. At the time, Mr. Toyofuku brought out the argument that no other public safety officer has these types of protections, and cited this section of the HRS. For us, you are asking our county lifeguards to protect a State beach park that's one of the most dangerous and most popular State beach parks and all we are asking for is some protection for our lifeguards who are putting themselves at risk. He said at the last moments of this session, they tried to change the Attorney General "may defend" to "shall defend," but it still didn't rise to the level that we could accept it. The Senate President has publicly said the Senate would introduce a bill and pass it over to the House to repeal the sunset. So, from the Senate side we have a commitment to it going back to the way it originally was. President Kanuha said that will be up for discussion on the 2018 legislative package. Secretary Crivello said she would like to have us push for the repeal of the sunset provision. Councilmember Hokama said maybe the key thing for Mr. Toyofuku to remember is the last component of the statute, which says under an agreement between the State and the County. In our County, only the Council is authorized to allow the Mayor to execute an intergovernmental agreement. Council Chair White said the other point is that the lifeguards, unlike other personnel, are doing rescues in State jurisdiction, not County jurisdiction. Other emergency personnel, except maybe Fire if they go for an ocean rescue, are doing rescues on land, within the County's jurisdiction. President Kanuha asked whether the Executive Committee should invite Mr. Toyofuku to a meeting. Treasurer Anderson said he will make the request.

2. Formulation of press release for legislative informational briefing regarding GET and TAT

They have received notification that next week the House and Senate will have an informational briefing re GET and TAT, on Monday, August 14. Per the hearing notice, it will be held by the Senate Transportation and Energy; Public Safety, Intergovernmental and Military Affairs; and Ways and Means Committees. For the House, the relevant committees are the Committee on Transportation and Committee on Finance. The hearing will be held at 10 am at the State Capitol. Scott Ishikawa is here to discuss how we will proceed with this informational briefing. President Kanuha said the Legislature wouldn't have a briefing if it didn't already know what it was going to do. He said it would be great to have a position coming out of HSAC and the counties.

President Kanuha said the State's draft presentation has been distributed. Council Chair White said the presentation provides five different funding options. He said on one page they say Oahu generates 76% of the TAT, which is incorrect. On another page, they suggest 85% of the TAT is generated on Oahu, and the reality is it's closer to 49% on Oahu and 51% on the neighborhood islands. On the page where they focus on Option 3, the numbers are very muddy, and if you add them up they don't reflect what the increase in the general excise surcharge would be. Council Chair White questioned the accuracy of specific numbers set forth in the presentation. (See the attached Notes on WAM (Ways and Means) Draft Presentation on Rail Funding Options and the draft presentation relating to the Special Session 2017.) He pointed out inaccuracies in TAT generation figures. With the growth of TAT, State's share went up by $96 million in two years, totaling $326 million.

The Executive Committee reviewed the draft presentation and discussed whether to point out miscalculations and if so, whether the press was the right vehicle or whether legislators should be contacted individually. The members also discussed their availability to attend the Special Session on Monday.

Treasurer Anderson noted the Honolulu City Council has formed a permitted interaction group of four members on rail funding. The Executive Committee discussed who would testify and developing a strategy on testimony if the opportunity is available. The Committee requested a document outlining the corrections needed.

Councilmember Hokama said the body should not focus only on the rail component, noting needs of the State for additional revenue to fund the annual required contribution for the Employer-Union Health Benefits

Trust Fund (EUTF). He provided a copy of a memo dated July 5, 2017, on the issue (see attached).

President Kanuha said he has no problem with anyone advocating on behalf of HSAC. He said HSAC has been pretty staunch in its position of the 45/55 split for TAT. Council Chair White said he thought passing a resolution supporting Oahu's position that funding for rail should be taken care of using the GET would be a mechanism. Maui County Council has passed a resolution to this effect. President Kanuha said he knows Hawaii County is not in favor of an increase in TAT. Vice President said it's easier to support an extension of the status quo, which would be the GET. The Executive Committee requested a one-page summary of talking points on the inaccuracies in the draft presentation and discussed how inaccuracies would be communicated. Secretary Crivello said she would be willing to testify about the HSAC Executive Committee's position, if testimony is allowed on Monday.

V. NEW BUSINESS

A. Discussion and consideration of extension of the general excise and use tax surcharge for the Honolulu Rail Project.

Maui County passed a resolution supporting Honolulu's position, and HSAC has that issue up for discussion. Treasurer Anderson said the Honolulu Council's position is that the fairest and most equitable option to pay for completion of the rail project is through an extension of the GET, an existing tax citizens have become accustomed to paying for over ten years now. He said if we do a combination or rely on an alternative source of revenue, anything other than a GET extension would be considered a new tax. He said GET remains the most viable option. The pool of people who pay GET is vastly larger than the roughly 250,000 real property taxpayers on this island. Treasurer Anderson introduced Resolution 17-208 (*see*, attached copy), and the Council Chair waived it and put it on the floor for consideration yesterday, but because the resolution mentioned TAT, two colleagues were concerned that we would upset some State lawmakers. His colleagues wanted the opportunity to discuss this at committee prior to passing it on to the Council.

Vice President Kawakami questioned whether there is any value to a press release prior to Monday, saying it wouldn't have to be negative. It could be a statement from HSAC, saying it's pleased the members of the House and Senate have come back to the drawing board to work out any difference remaining at the end of the session, and that HSAC believes there is a fair and equitable way to work out funding on rail, which is through an extension of the GET. We do have some time to formulate a message. Mr. Ishikawa agreed HSAC needs to have a presence at the Capitol on Monday.

President Kanuha said right now the Executive Committee is discussing consideration of the extension as proposed by Honolulu. President Kanuha focused on approving the GET extension as one of the components of HSAC's testimony. Vice President Kawakami noted the cap was always intended to be temporary. Some new legislators may have forgotten that. Whatever language we put in, HSAC can say we support the extension of the GET. Sometimes less is more. Secretary Crivello said she likes that approach. Vice President Kawakami said for 2018 he plans to add to the package a proposal for a complete repeal of the TAT cap. Council Chair White raised the issue of the TAT remaining unpaid by remarketers.

President Kanuha said he is ready to support Honolulu's request that HSAC consider the proposal to extend the GET. The Committee discussed the potential impacts if the Legislature fails to find adequate funding for the rail.

President Kanuha asked whether HSAC should adopt its own resolution.

The resolution would say, "BE IT RESOLVED that the HSAC Executive Committee supports the Hawaii State Legislature's approval of an extension of the Honolulu General Excise and Use Tax surcharge as necessary to enable the completion of the Minimum Operable Segment of the Honolulu High-Capacity Transit Corridor Project to Ala Moana Center."

Secretary Crivello made a motion to approve the proposed resolution. The motion was seconded by Vice President Kawakami and unanimously carried.

The resolution will be the basis of the testimony from HSAC on Monday.

VI. ANNOUNCEMENTS

A. Scheduling the next meeting.

The next meeting is scheduled for September 11, 2017, at 10:00 a.m., at Honolulu Hale.

B. Other announcements.

There were no other announcements.

VII. ADJOURNMENT

The meeting was adjourned at 12:38 p.m.

§662-1 Definitions. As used in this chapter the term:

"Acting within the scope of the employee's office or employment", in the case of a member of the Hawaii National Guard or Hawaii state defense force, means acting in the line of duty.

"Employees of the State" includes officers and employees of any state agency, members of the Hawaii national guard, Hawaii state defense force, and persons acting in behalf of a state agency in an official capacity, temporarily, whether with or without compensation. "Employees of the State" also includes persons employed by a county of this State as lifeguards and designated to provide lifeguard services at a designated state beach park under an agreement between the State and that county.

"State agency" includes the executive departments, boards, and commissions of the State but does not include any contractor with the State. [L 1957, c 312, pt of §1; Supp, §245A-1; HRS §662-1; am L 1988, c 135, §1; am L 1991, c 316, §1; am L 2015, c 35, §19]

§662-16 Defense of state employees. The attorney general may defend any civil action or proceeding brought in any court against any employee of the State for damage to property or for personal injury, including death, resulting from the act or omission of any state employee while acting within the scope of the employee's employment. The employee against whom such civil action or proceeding is brought shall deliver within the time after the date of service or knowledge of service as determined by the attorney general, all process or complaint served upon the employee or an attested true copy thereof to the employee's immediate superior or to whomever was designated by the head of the employee's department to receive such papers and such person shall promptly furnish copies of the pleadings and process therein to the department of the attorney general.

No judgment by default shall be entered against a state employee based on a cause of action arising out of an act or omission of such employee while acting within the scope of the employee's employment unless the department of the attorney general has received a copy of the complaint or other relevant pleadings and a period of twenty days has elapsed from the date of such receipt.

The attorney general may also defend any civil action or proceeding brought in any court against a county based on an allegedly negligent or wrongful act or omission of persons employed by a county as lifeguards and designated to provide lifeguard services at a designated state beach park under an agreement between the State and a county.

The attorney general may also defend any civil action or proceeding brought in any court against any provider of medical, dental, or psychological services pursuant to contract with the department of public safety when the provider is sued for acts or omissions within the contract's scope of work. [L 1976, c 47, §1; am L 1991, c 316, §2; am L 1994, c 143, §1]

Notes on WAM Draft Presentation on Rail Funding Options

Slide 23 — 7th bullet - Honolulu's 44.1% share of TAT must go to Rail ($13 M = 44.1%) incorrect. Honlulu 44.1% share is $41Million)
Ten year amount would be $410M, not $130M

Slide 24 — Table - 1% TAT for 10 years is $958.3 M. Neighbor Islands funding 51% or $489M - Maui $278M, Hawaii $115M, Kauai $96M
Must be using excess of TAT since 1% TAT generates only $58M in 2018

Slide 25	Oahu	2,745,559,000	85.6%
GET	Maui	199,013,000	6.2%
	Hawaii	179,840,000	5.6%
	Kauai	81,321,000	2.5%
		3,205,733,000	

Slide 26	Oahu	201,864,000	71.4%
Payroll	Maui	29,567,000	10.5%
	Hawaii	39,157,000	13.8%
	Kauai	12,305,000	4.3%
		282,893,000	

Slide 27 — Totally wrong - Neighbor Islands generate 51% of TAT, NOT 15%. Missing June TAT
How do Maui and Hawaii generate negative TAT in July and August?

% Generated	Working Group Distribution		
48.9%	$ 236,956,797		Oahu
29.3%	$ 141,980,248		Maui
12.5%	$ 60,571,778		Hawaii
9.3%	$ 45,065,403		Kauai
	$ 484,574,226		

Slide 28 — Slide uses only percentages, no specific numbers on what the State gets from TAT

Allocations	Presentation	2018	2018
State	54.0%	61.2%	326,536,000
Counties	21.0%	17.4%	93,000,000
Tourism	18.0%	15.6%	83,000,000
Conv Center	6.0%	5.0%	26,500,000
Turtle Bay	0.0%	0.3%	1,500,000
Land & Devel	1.0%	0.6%	3,000,000

Slide 29 — Slide uses only percentages, no specific numbers on what the State gets from TAT

% Generated	Presentation
48.9%	76.0%
29.3%	11.0%
12.5%	8.0%
9.3%	5.0%

Slide 30 — No study of impact since 1987?

No GET increase since 1965 - any studies of the impact of an increase?

Slide 31 — No estimate of FY 2017 - Should be about $508.1M, Increase of 13.7%

Growth rate of 8.36% since inception is likely due to rate increases rather than growth in room revenues

hotel rentals	Cal Year 2016	4,502,385,200
	Cal Year 2008	3,130,759,275
	Cal Year 2009	2,618,860,475

Slide 32 — Highway funds are not part of general fund and should not be used in this justification.

County districts that generate significantly higher tax revenues willingly support districts that don't

Slide 33 — Airport funds are not part of general fund and should not be used in this justification.

Neighbor Islands and All Other	115,427,432	Revenues
	105,812,072	Expenses
	9,615,360	Excess

Slide 34 — Small harbor funds not general funds . 2016 neighbor islands were net positive

Slide 44 — Why are there no totals or projections, deficits, excesses for this option??

	.5% Surcharge Collected	.15% Surcharge Proposed	.65% Surcharge Proposed		
2016	255,000,000	76,500,000	331,500,000	7.95%	3,206,154,000

$255m surcharge is 7.95% of total GET collected of $3,206,154,000

Increase surcharge to .65%

	Incorrect Presentation	Recalculation	.5% Base at 99%	.15% Added Surch at 99%	Total		GET
2018	367,594	80,931,194	272,495,602	80,931,194	353,426,796	3.89%	3,459,629,000
	402,428	84,588,665	281,962,217	84,588,665	366,550,882	3.47%	3,579,818,000
	420,537	87,333,400	291,111,332	87,333,400	378,444,732	3.24%	3,695,976,000
	439,461	90,453,840	301,512,801	90,453,840	391,966,642	3.57%	3,828,034,000
	459,237	93,583,567	311,945,225	93,583,567	405,528,792	3.46%	3,960,485,000
2023	479,903	97,011,497	323,371,655	97,011,497	420,383,152	3.66%	4,105,556,000
	501,498	100,406,899	334,689,663	100,406,899	435,096,562	3.5%	
	524,066	103,921,140	346,403,801	103,921,140	450,324,941	3.5%	
	547,649	107,558,380	358,527,934	107,558,380	466,086,314	3.5%	
	572,293	111,322,924	371,076,412	111,322,924	482,399,335	3.5%	
2028	399,295,525	499,283,312	384,064,086	115,219,226	499,283,312	3.5%	
	417,263,823	516,758,228	397,506,329	119,251,899	516,758,228	3.5%	
	436,040,695	534,844,766	411,419,051	123,425,715	534,844,766	3.5%	
	455,662,527	553,564,333	425,818,718	127,745,615	553,564,333	3.5%	
	476,167,340	572,939,085	440,722,373	132,216,712	572,939,085	3.5%	
2033	497,594,871	592,991,953	456,147,656	136,844,297	592,991,953	3.5%	
	2,686,739,447	4,227,493,182	5,708,774,855	1,712,632,456	7,420,589,825		
Difference		1,540,753,735					
	Through 2027		3,193,096,642	957,111,506	4,150,208,148		

2028 - 2033	3,270,381,676
Target Funding	2,589,000,000
Excess	681,381,676

Slide 45 Title of slide states Oahu TAT, but calculation states Statewide TAT
TAT of $729.3M shown on slide is 76% of the Statewide TAT shown on Slide 49. The 76% figure coincides with the erroneous Oahu TAT claim on Slide 29

Slide 46 Are they going to provide "Worksheet 1" and "Worksheet 2" noted at the top right of the page?
The provided growth rate for TAT may be too hopeful. The growth in statewide hotel rental revenue base is 4% from 1996 to 2016

Slide 49 Evidently not much thought given to the .5% Surcharge for the Neighbor Islands!!!

DRAFT

Special Session 2017

RAIL TAX SURCHARGE

Table of Contents

History of project

How did we get here?

Hawaii State Legislature

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

Charter Amendments voted by the Oahu residents

City and County of Honolulu

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

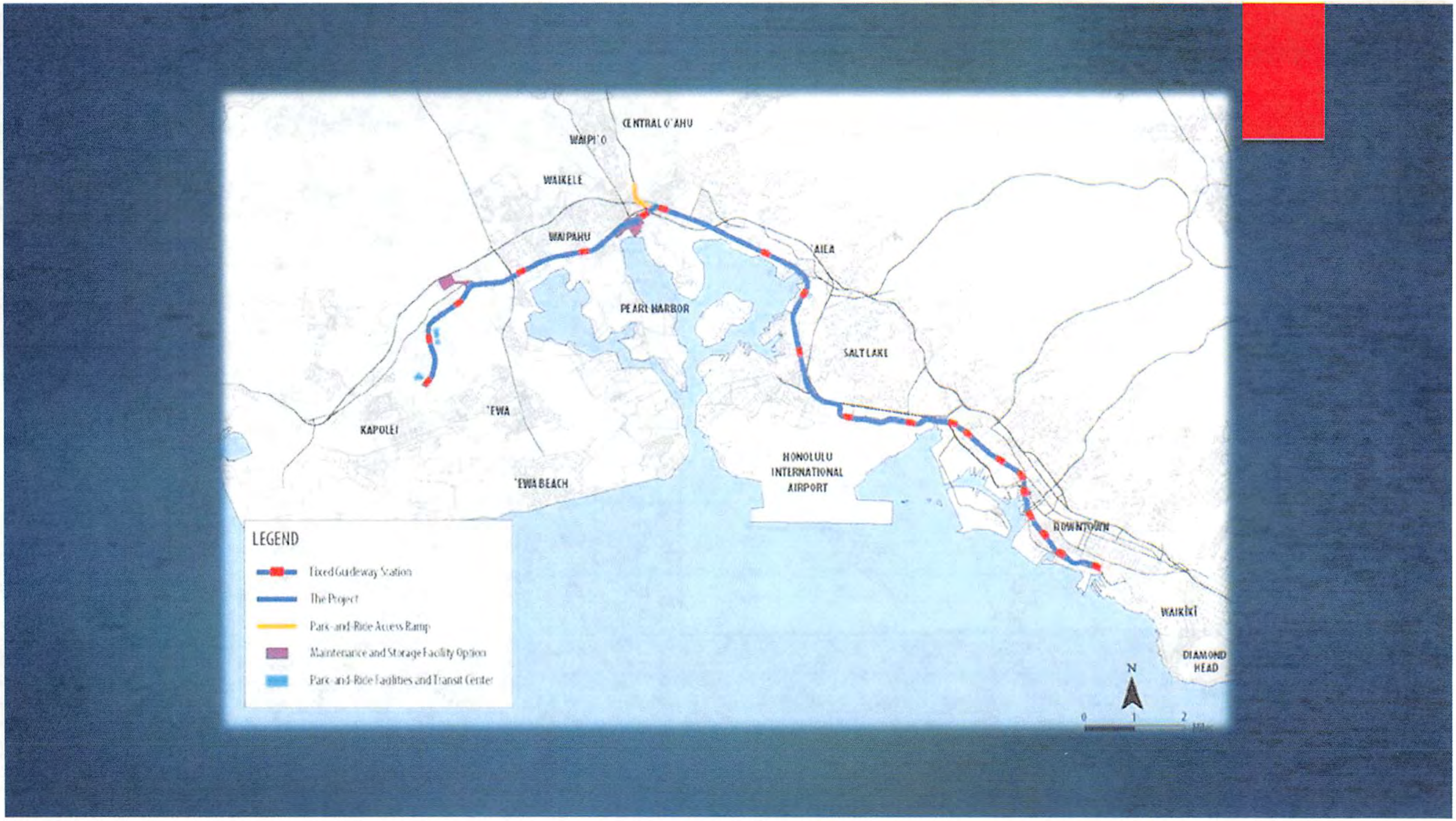
Collection of funds to date

GET Surcharge

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

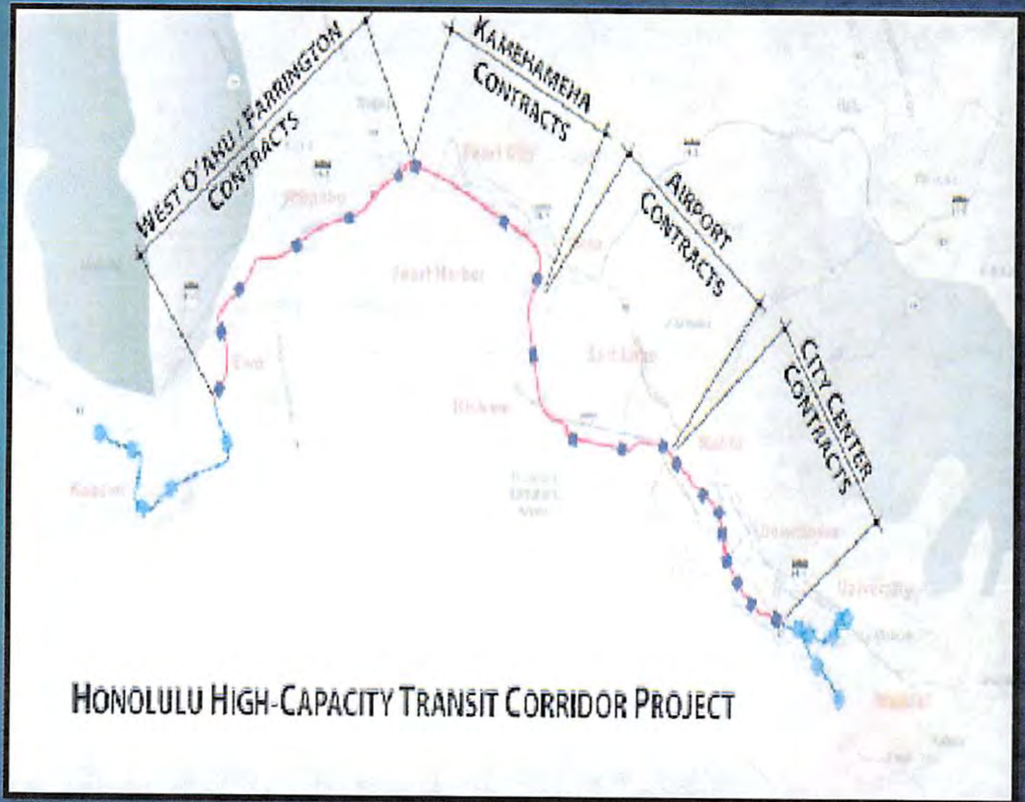
Federal Funds

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


CENTRAL O'AHU
WAIPI'O
WAIKELE
WAIPAHU
'AIEA
PEARL HARBOR
SALT LAKE
KAPOLEI
'EWA
'EWA BEACH
HONOLULU INTERNATIONAL AIRPORT
DOWNTOWN
WAIKIKI
DIAMOND HEAD
LEGEND
Fixed Guideway Station
The Project
Park-and-Ride Access Ramp
Maintenance and Storage Facility Option
Park-and-Ride Facilities and Transit Center
N
0
1
2

Phases of Construction

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



Major Project Delays

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

Other costs related to construction

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

Who is HART?

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

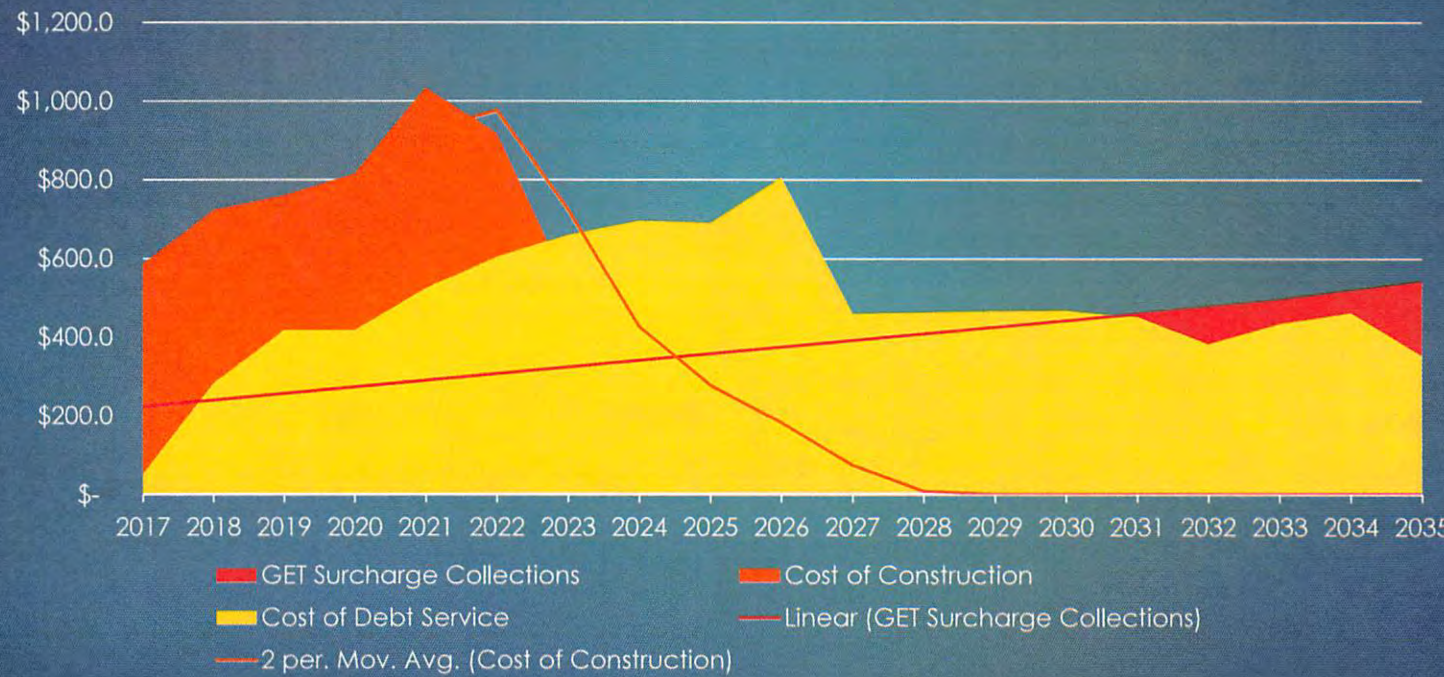
- HART is responsible for the planning, construction and expansion of the Honolulu Rail transit project.
- Semi-autonomous agency established on July 1, 2011 through an amendment to the Revised Charter of the City and County of Honolulu.
- KRISHNIAH N. MURTHY, P.E., F. ASCE, Interim Executive Director of HART. (Term December 5, 2016 to December 4, 2017)
- ANDREW ROBBINS – new executive director to start in September
- HART is governed by a 10-member volunteer Board of Directors, serving five-year staggered terms.


HART Board of Directors
Damien Kim
Chair
Terrence Lee
Vice-Chair
John Henry
Felix
Wes Frysztacki
Ford
Fuchigami
Terri Fujii
Glenn M.
Nohara
Ember Shinn
Kathy
Sokugawa
Hoyt H. Zia

Project costs

GET Surcharge Collections vs Cost of Construction vs Debt Service

(in $ millions)



Estimated cost for completion

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

Cost and Percentage Completion of Major Contracts Awarded:

- West Oahu/Farrington Highway Guideway ($662M, 97.1%); Kamehameha Highway Guideway ($82M, 88.9%); Maintenance and Storage Facility ($274M, 100%); Core Systems ($601M, 43.0%); and Airport Section Guideway and Stations Group ($875M, 5.0%).
- **HART currently has over $4.27B in either completed or awarded contracts**, which include 15.9 of the 20.1 miles of guideway and 13 of the 21 stations.
- The Project plans to procure the City Center Section Guideway and Station Group Design-Build (CCGS) package and the Pearl Highlands Garage and Transit Center (PHGT) DB package in 2018.

Project reports and recommendations

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

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

Project Management Oversight Contractor Report
2016 Risk Refresh Report

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

Federal Transit Administration

Requesting a financial plan by September 15th

HART

CMS AP00-02212

HONOLULU AUTHORITY for RAPID TRANSPORTATION

July 24, 2017

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

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

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

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

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

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

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

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

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

Very truly yours,

Krishniah N. Murthy
Interim Executive Director and CEO

Attachment

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

U.S. Department of Transportation
Federal Transit Administration

Executive Director

1200 New Jersey Avenue, SE
Washington, DC 20590

JUL 24 2017

Mr. Krishniah Murthy
Interim Executive Director and Chief Executive Officer
Honolulu Authority for Rapid Transportation
1099 Alakea Street, Suite 1700
Honolulu, HI 96813

Dear Mr. Murthy:

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

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

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

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

Sincerely,

Matthew J. Welbes

Cc: Mayor Kirk Caldwell

Possible options for rail construction

Areas of common ground

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

Conference Position: SB1183 SD2 HD2 CD1

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

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

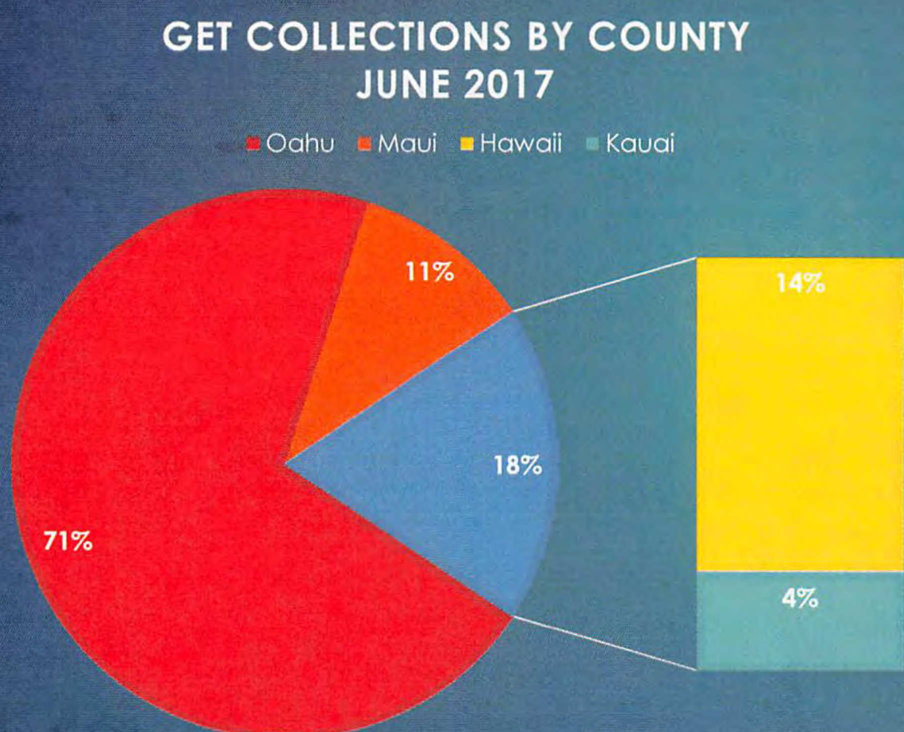
**Current projections already include GET surcharge until sunset 2027. This chart shows potential identified revenue sources.

House Position: SB1183 SD2 HD2 HCD2 FA6

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

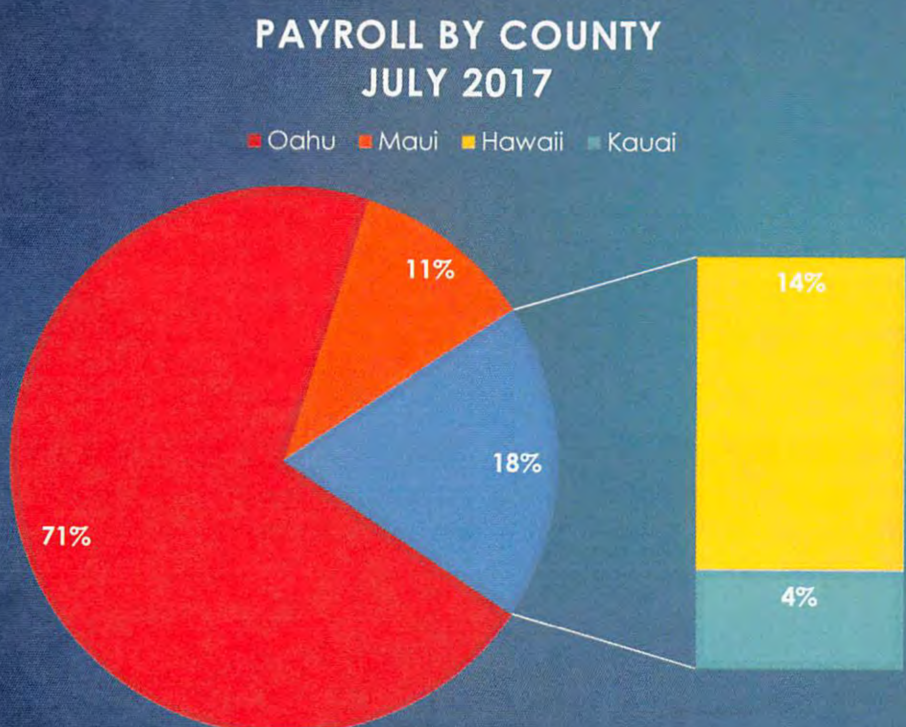
Surcharge Oahu Only 99% of GET	$ 398,697,478
1% of statewide TAT	$ 958,301,113
New Start Education Fund	$ (250,000,000)
Total (2028):	**$ 1,106,998,591**

Statewide GET Collections



County	Total Monthly Collections	% of Total
Oahu	$ 546,243,167.58	71%
Maui	$ 35,570,292.18	11%
Hawaii	$ 34,648,222.35	14%
Kauai	$ 13,909,593.03	4%

Statewide GET Allocations (payroll)

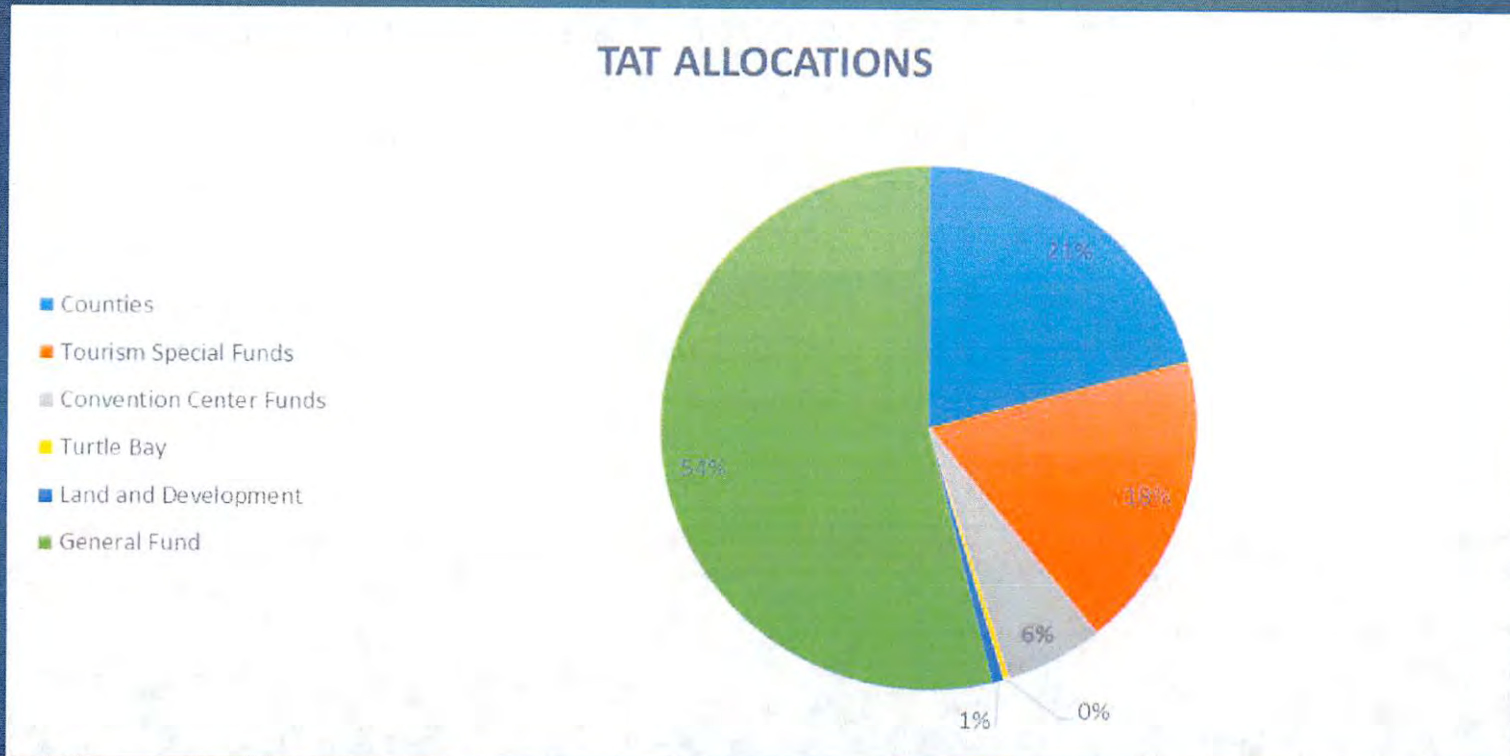


Payroll by Island ($ in thousands)				
District	7/5/17	7/20/17	Total July	%
Hawaii	$ 19,624	$ 19,532	$ 39,157	13.8
Oahu	$ 97,436	$ 97,139	$194,575	68.8
Molokai	$ 659	$ 628	$ 1,287	0.5
Kauai	$ 6,175	$ 6,129	$ 12,305	4.3
Maui	$ 14,056	$ 13,548	$ 27,604	9.8
Lanai	$348,912	$327,355	$ 676	0.2
None	$ 3,027	$ 4,261	$ 7,289	2.6
Total	$141,328	$141,567	$282,895	100%

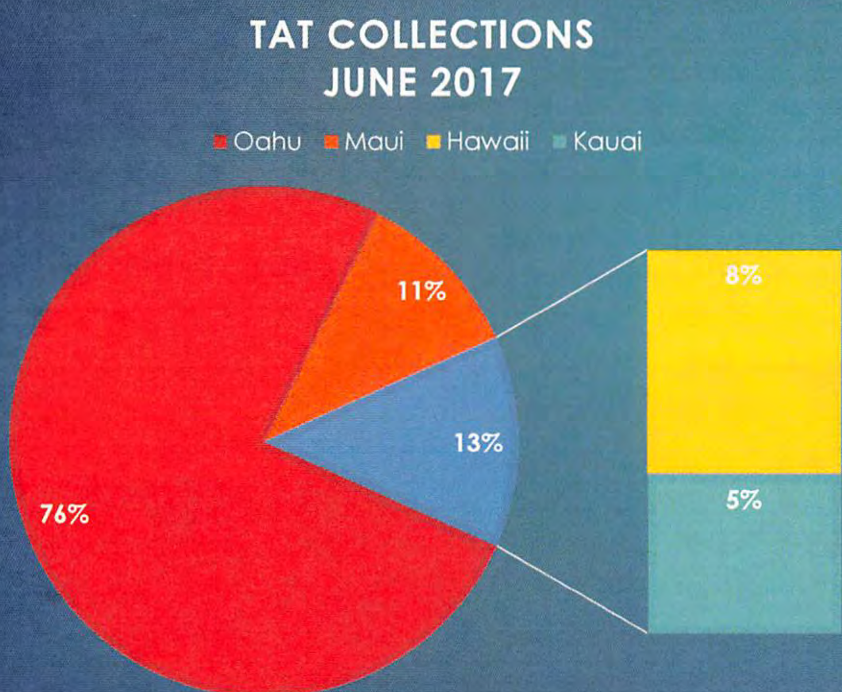
Monthly County TAT Collections FY2016 – 2017

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

Statewide TAT allocations



County TAT Collections and Allocations



County	Distribution (per HRS 237-D)
Oahu	44.1%
Maui	22.8%
Hawaii	18.6%
Kauai	14.5%

Statewide TAT increases

TAT Rate Changes and Effective Dates, 1987-Current	
Effect Date	Rate
January 1, 1987	5.0%
July 1, 1994	6.0%
January 1, 1999	7.25%
July 1, 2009	8.25%
July 1, 2010	9.25%

Source: The Auditor, State of Hawaii, 2015

- *Research by several University of Hawaii economics professors found that Hawaii's 5% TAT of 1987 did not have a statistically significant negative revenue impact on lodging suppliers. (Mak, 2016)*

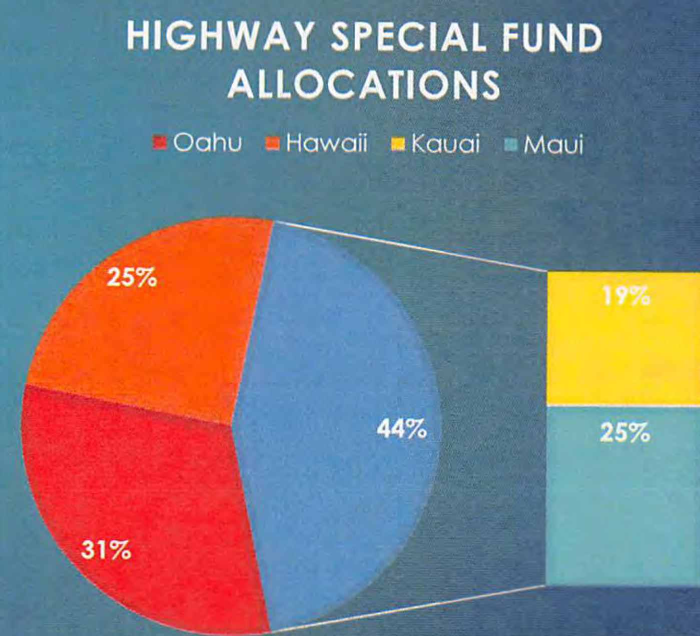
TAT Historical Growth Statewide (2006 - 2016)

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

Per B&F, (29 year average growth rate since inception in 1987 is 8.36%. Last 10-year average, including Great Recession, is 8.52%)

Statewide highways collections and allocations

Highways Fiscal Year Ending June 30, 2016		
County	**Gross Revenue**	**% Generated**
Oahu	$ 80,977,632	60%
Hawaii	$ 23,546,086	17%
Kauai	$ 9,809,793	7%
Maui	$ 20,433,625	15%
Total	**$ 134,767,137**	



Statewide airport collections and allocations

Airports Fiscal Year Ending June 30, 2016							
	Total	**Honolulu Int.**	**Hilo Int.**	**Kona Int.**	**Kahului**	**Lihue**	**All others**
Revenue	$ 353,071,282	$ 237,643,850	$ 7,286,685	$ 24,062,346	$ 57,926,473	$ 24,424,710	$ 1,727,218
Expenses	$ 259,222,720	$ 153,410,648	$ 14,549,461	$ 21,629,608	$ 28,865,902	$ 19,649,703	$ 21,117,398

Statewide harbors collections and allocations

Small Boat Harbors (DOBOR)						
	2015			2016		
	Revenues	Expenses	Difference	Revenues	Expenses	Difference
Hawaii	$ 2,296,010	$ 3,618,440	$ (1,322,429)	$ 2,535,556	$ 2,328,168	$ 207,387
Maui	$ 2,795,562	$ 2,325,249	$470,312	$ 2,988,353	$ 2,279,622	$ 708,731
Oahu	$ 6,941,574	$ 5,593,023	$1,348,550	$ 6,273,589	$4,708,488	$ 1,565,370
Kauai	$ 1,000,780	$ 2,275,132	$ (1,274,351)	$ 915,170	$ 1,771,337	$ (586,166)

Possible project options

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

Option A: Stop at **Middle Street**

- No extension on GET surcharge needed (legislature would not need to convene a Special Session)
- Current date (2027) provides funding to build to Middle Street
  - This would include the release of the second obligation of $743.7 under FFGA
- FFGA funds will have to be paid back to FTA
- City would need to figure out how to make up $1.55B funding gap

ATTACHMENT 2

HART

HONOLULU AUTHORITY for RAPID TRANSPORTATION

WHAT IF WE WERE TO STOP NOW?

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

Option B: Stop at **Aloha Tower**

- $6.8B
- Public-Private Partnerships (need enabling legislation) to assist with project costs continuing on to:
  - Civic Center
  - Kakaako
  - Ala Moana
- FFGA funds will have to be paid back to FTA
- City would need to figure out how to make up $1.55B funding gap

Option C: Complete to **Ala Moana**

- Option #1: Extend Oahu GET Surcharge only
- Option #2: Increase Oahu GET Surcharge
- Option #3: Extend Oahu GET Surcharge + Oahu TAT increase
- Option #4: Extend Oahu GET Surcharge + Statewide TAT increase
- Option #5: Statewide GET surcharge + Statewide TAT Increase
- Remaining obligation of $743.7M under FFGA released
- Condition surcharge funds

Possible Conditions

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

Methods of Disbursement

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

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

Drawdown Options

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

Grant-In-Aid

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

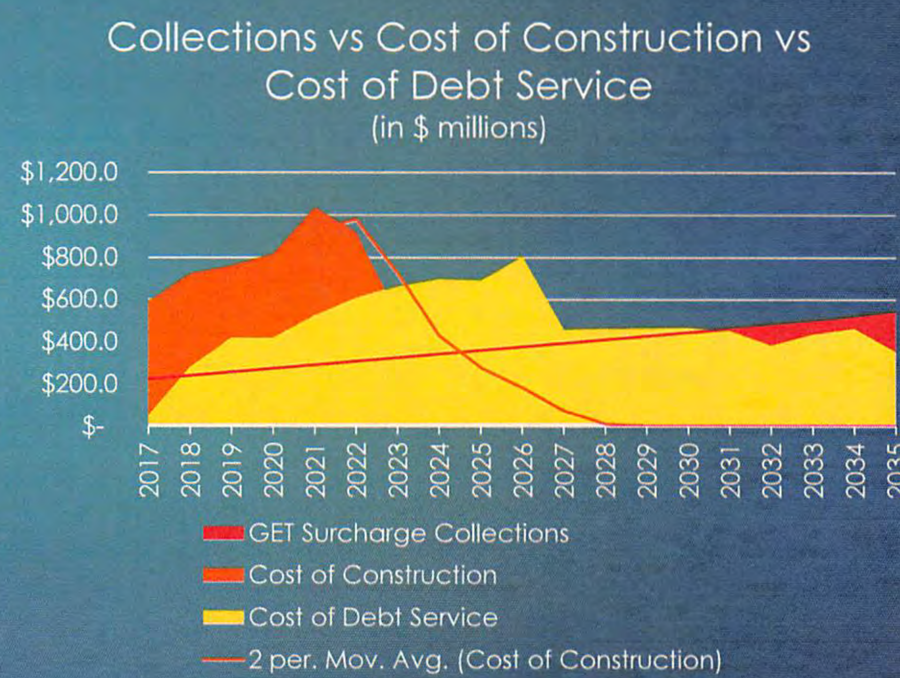
Special Loan Fund

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

Option #1: GET Surcharge only

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

2034	
GET extension (over 2027)	$ 2,987,200,328
Deficit	$ (2,588,823,281)
Excess	$ 398,377,047



Option #2: Increase Oahu GET Surcharge

2033	
99% GET Surcharge at 0.65%	
2018	$ 367,594
2019	$ 402,428
2020	$ 420,537
2021	$ 439,461
2022	$ 459,237
2023	$ 479,903
2024	$ 501,498
2025	$ 524,066
2026	$ 547,649
2027	$ 572,293
2028	$ 399,295,525
2029	$ 417,263,823
2030	$ 436,040,695
2031	$ 455,662,527
2032	$ 476,167,340
2033	$ 497,594,871

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

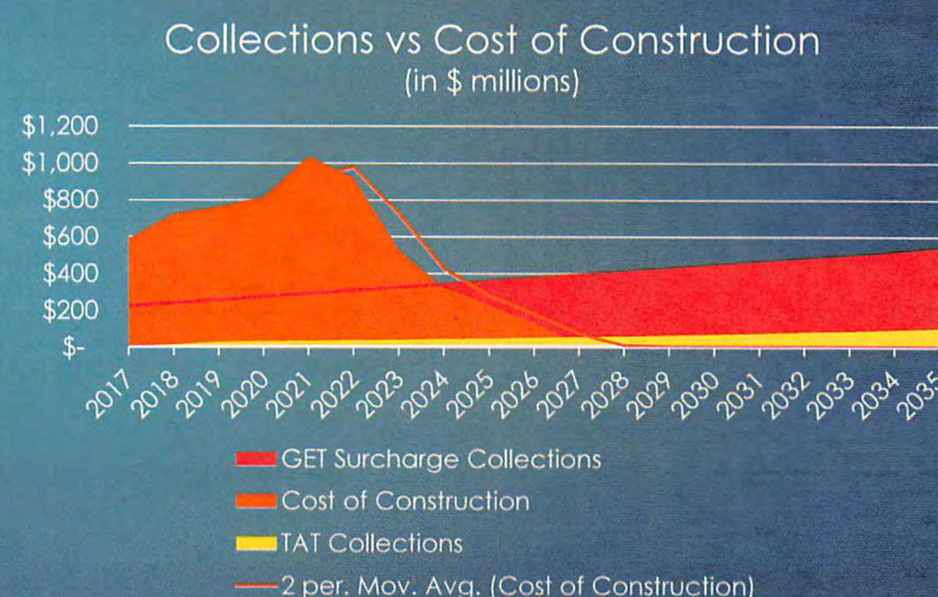
An extension of the surcharge, beyond 2027, would include the full 0.65% in revenue.

Option #3: Oahu GET + Oahu TAT

99% Oahu GET Surcharge + 1% Oahu TAT Increase

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

2032	
GET extension (over 2027)	$ 2,048,498,010
1% TAT Statewide	$ 729,261,720
TOTAL:	$ 2,777,759,730
Deficit	$(2,588,823,281)
Excess	$ 188,936,449



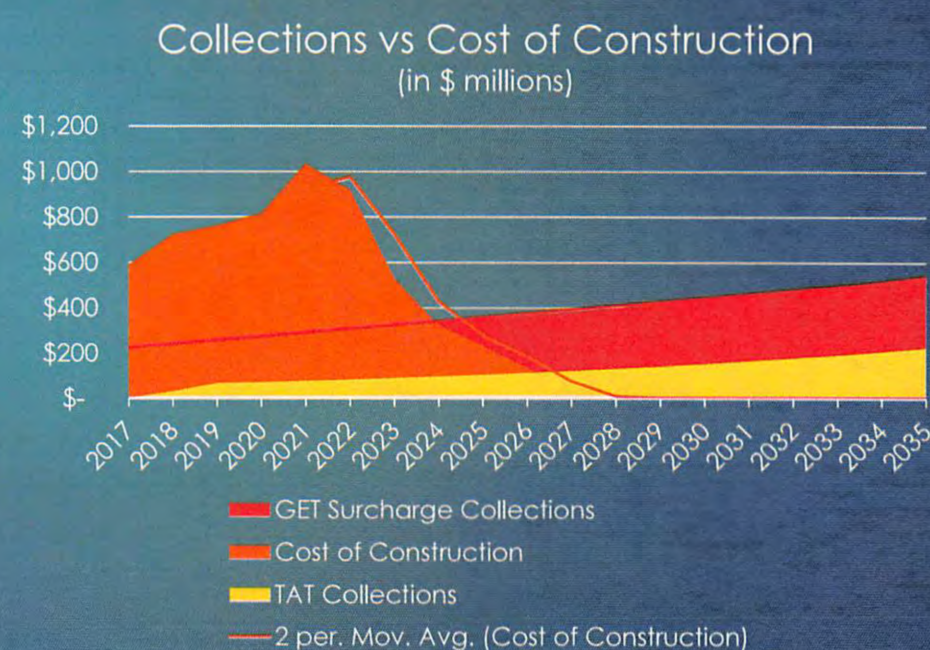
Descriptions (Including Assumptions) *Executive Summary of Potential Funding for Rail provided by Budget and Finance	Worksheet 1 GET Oahu Only & TAT All Islands	Worksheet 2 GET & TAT All Islands
GET Growth Rate (Per Department of Taxation)	4.5%	4.5%
TAT Growth Rate (Variable rate for Worksheet 2 determined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

Option #4: Oahu GET + Statewide TAT

99% Oahu GET Surcharge + 1% Statewide TAT Increase

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

2031	
99% GET Extension (over 2027)	$ 1,705,704,013
1% TAT Statewide	$ 1,407,578,097
TOTAL:	$ 3,113,282,111
Deficit	$(2,588,823,281)
Excess	$ 524,458,830

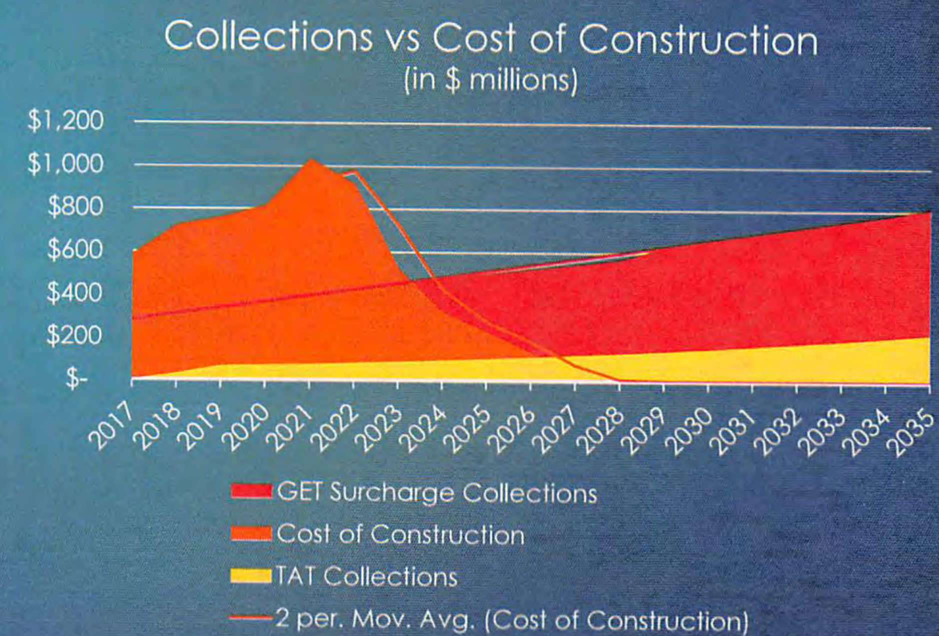


Option #5: Statewide GET Surcharge + Statewide TAT

99% Statewide GET Surcharge + 1% Statewide TAT Increase

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

2028	
99% All Islands GET Extension (2028)	$ 569,567,826
1% TAT Statewide (2018-2028)	$ 958,301,113
TOTAL:	$ 1,527,868,939
Deficit	$(1,354,232,749)
Excess	$ 173,636,190



0.5% Surcharge for Maui, Hawaii and Kauai

Maui	Hawaii	Kauai

State Debt vs General Fund Tax Revenues

- Pension Unfunded Liability - $8.8B in 2015 (State's portion $7B)
  - $5.1B in 2006
  - 72% growth in 10 years
- Health Benefits Unfunded Liability - $11.8B in 2015 (State's portion $9B)
  - $6.3B in 2006
  - 87% growth in 10 years
- Tax-Exempt General Obligation Bonds Outstanding - $6.6B
  - $4.3B in 2006
  - 53% growth in 10 years
- General Fund Tax Revenues - $5.7B in 2015
  - $4.4B in 2006
  - 30% growth in 10 years

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

State Debt vs General Fund Tax Revenues

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

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

References

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

July 5, 2017

Memorandum

To: Chair Colleen Takamura, Tax Review Commission
Vice Chair Vaughn Cook, Tax Review Commission
Ray Blouin, Tax Review Commission
Nalani Kaina, Tax Review Commission
John Knox, Tax Review Commission
Dawn Lippert, Tax Review Commission
Billy Pieper, Tax Review Commission
Titin Sakata, Hawaii Department of Taxation

From: Randall Bauer, PFM

Re: State of Hawaii Tax Study High Level Findings

Introduction

PFM Group Consulting LLC (PFM) was retained by the Tax Review Commission (Commission) to study three specific (and often inter-connected) areas of interest for Hawaii tax policy: who bears the burden of Hawaii's taxes; options to reform Hawaii's taxes to make them less regressive; and the best ways to generate more revenue through new and existing sources and through improved compliance with Hawaii's tax laws.

To conduct these studies, the PFM project team held numerous meetings with key Hawaii stakeholders, including elected officials, state government leadership and subject matter experts, all members of the Commission and members of the business and academic communities. PFM also benchmarked and reviewed state taxation trends and best practices around the country and gathered and analyzed economic, demographic and revenue and expenditure data for Hawaii.

As part of the project plan, PFM provides high level findings to assist the Commission in its deliberations and to provide a general perspective on how PFM will shape its final report and recommendations to the Commission. These findings are also made available to assist the Commission in providing feedback on the direction of the PFM final report, which will be provided in approximately one month.

High level findings are primarily findings of fact or supportable conclusions. They do not generally make recommendations or even suggest conclusions. They are also, of course, subject to modification as additional information and analysis is conducted through the remaining weeks of the project.

The findings are organized into the three basic study areas undertaken by the PFM project team:

1. Who bears the burden of Hawaii's taxes?
2. What are ways to reform Hawaii's taxes to make them less regressive?
3. What are ways to generate more revenue through new and existing sources and through improved compliance with Hawaii's tax laws?

Who Bears the Burden of Hawaii's Taxes?

Tax burden is an important consideration, as it impacts on key principles of taxation, particularly equity (both horizontal and vertical) and economic competitiveness. Principles of taxation were discussed at length in the PFM report to the 2012 Commission.

For the following analysis, PFM used State of Hawaii tax data from 2014-2015. It is notable that the higher marginal tax rates that were in place for tax years 2009 to 2015 were allowed to expire for 2016 and 2017. Therefore, the tax burden analysis reflects these higher rates. During the 2017 session, the Legislature reinstated these higher rates for following tax years. As a result, the effective rates and share of Hawaii incomes taxes paid by high income taxpayers would be lower than what is shown, should the Governor not sign those tax changes into law. This will be a settled issue by the time the final report is written. PFM will, where appropriate, discuss the likely impact of those changes in the final report.

According to a national tax burden analysis, Hawaii's middle and upper income taxpayers have relatively lower tax burdens.[1]

For tax burden comparison purposes, PFM has used data from an annual study conducted by the Chief Financial Officer for Washington DC.[2] This study compares the tax burden for the District of Columbia and each of the largest cities in all 50 states. It uses a family of three at different income levels for its analysis. The study is useful because it provides a national point of comparison of state and local taxes. PFM has used this study as a starting point in multiple state and local tax projects, including the study for the 2012 Commission.

According to the most recent annual tax rate and tax burden study, Honolulu households with incomes above $50,000 have low tax burdens relative to most other large cities in the US. Households with incomes between $50,000 and $150,000 (the highest income cohort included in the study) on average have tax burdens between 6.1 and 7.5 percent of income – ranking in the lowest 20 percent nationwide, as shown in Table 1.

Table 1: Honolulu, Hawaii National Tax Burden Ranking, 2015

Income Level	Taxes					Tax Burden	
	Sales	Income	Property	Auto	Total	Percent	Rank (of 51)
$50,000	$823	$1,293	$692	$251	**$3,059**	6.1%	46
$75,000	$1,105	$2,443	$1,178	$434	**$5,160**	6.9%	43
$100,000	$1,354	$3,758	$1,664	$555	**$7,331**	7.3%	41
$150,000	$1,653	$6,437	$2,636	$537	**$11,263**	7.5%	40

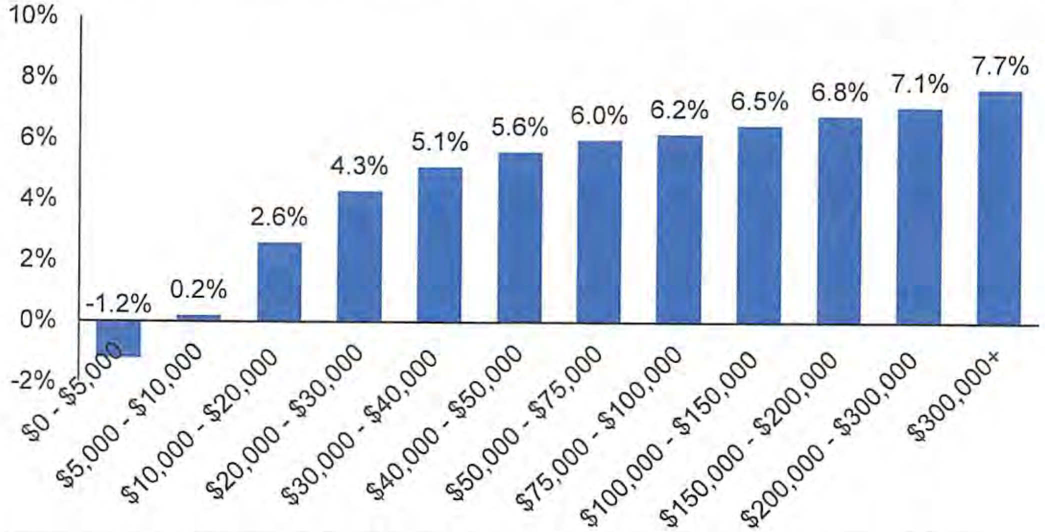
Source: Washington DC Tax Rates and Tax Burdens 2015

[1] In the study, tax burden attributed to property tax is higher for those at $25,000 than other households because it is calculated off an assumed rent for a 3-person family rather than off the assumed assessed value of a home. The median rent in Hawaii is approximately 56 percent above the national average, resulting in higher assumed property taxes paid through rent. However, property taxes in Hawaii are relatively low – the median paid residential property tax in Hawaii was over 1/3 below the national average in 2015. Therefore, the project team believes a 20 percent of rent assumption is highly inflated, and therefore that income cohort is not included in this analysis.
[2] Washington DC Tax Rates and Tax Burdens 2015 – A Nationwide Comparison. Issued December 2016.

Hawaii's income tax structure is broadly progressive.

The most significant marginal increases in effective tax rates occur between $0 and $40,000. Between $40,000 and $200,000, marginal increases are consistent but modest. A more significant rise in the effective tax rate occurs between $300,000 and $300,000 and more. Households making over $300,000 and filing as a head of household pay 11 cents on the marginal dollar, one of the nation's highest marginal tax rates for upper income earners. The very wealthy pay at a significantly higher effective rate than other taxpayers.

Figure 1: Effective Hawaii Income Tax Rate by Adjusted Gross Income Range, 2014

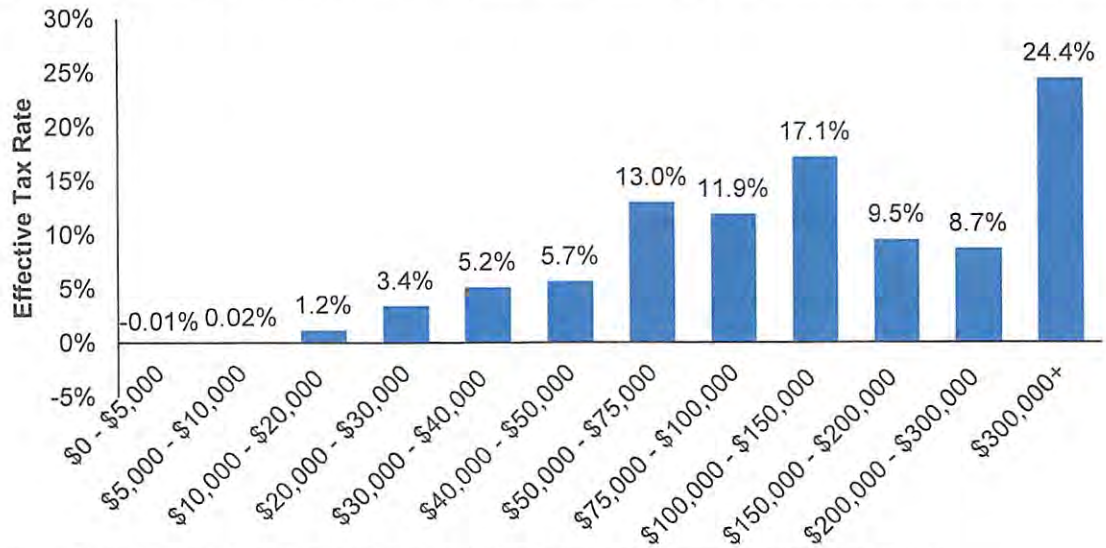


Source: Hawaii Department of Taxation, Hawaii Income Tax Statistics Tax Year 2014

Upper income households pay most of the Hawaii income tax.

Households making over $100,000 pay approximately 60 percent of all Hawaii income taxes. Those making $300,000 and over pay nearly a quarter of all taxes, despite accounting for only 1.4 percent of all taxpayers. Middle income taxpayers ($50,000 - $100,000) pay approximately another quarter. Lower income households shoulder a relatively small percentage of the burden at roughly 10 percent.

Figure 2: Share of Total Resident Hawaii Income Tax Liability by Adjusted Gross Income Range, 2014



Source: Hawaii Department of Taxation, Hawaii Income Tax Statistics Tax Year 2014

Compared to other states, property taxes in Hawaii are relatively low.

Hawaii has the 19th lowest median property taxes and the lowest property taxes in the nation when measured against home values. When measured against homeowner incomes, the property tax burden in Hawaii is the 6th lowest of any state. For detailed property tax ranking charts by state, please see **Appendix A.**

Table 2: Hawaii Property Taxes, 2015

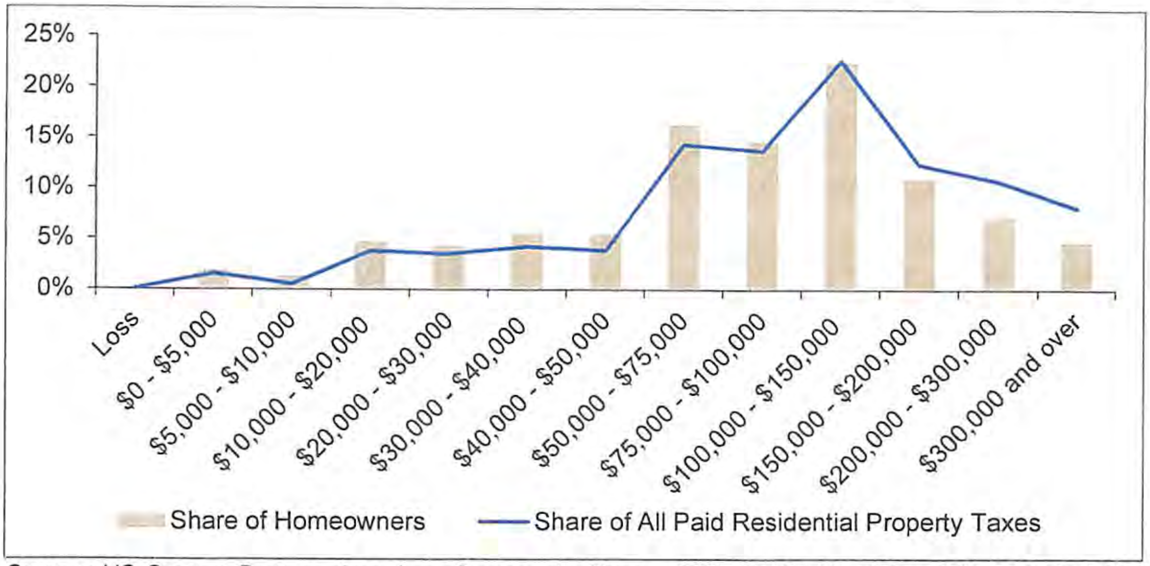
	Median Property Taxes Paid	Property Tax to Home Value Ratio	Median Property Taxes to Homeowner Median Income Ratio
Hawaii	$1,482	0.3%	1.6%
Rank	19	1	6

Source: US Census Bureau, American Community Survey 1-Year Estimates

The residential property tax burden is roughly apportioned by income range.

Homeowners making over $50,000 account for 82.3 percent of all residential property taxes. This share of the property tax burden closely mirrors the share of homeowners by income range. No particular income class bears a disproportionate burden relative to its share of homeowners, as shown in Figure 3.

Figure 3: Share of Homeowners and All Paid Residential Property Taxes by Income Range, 2015

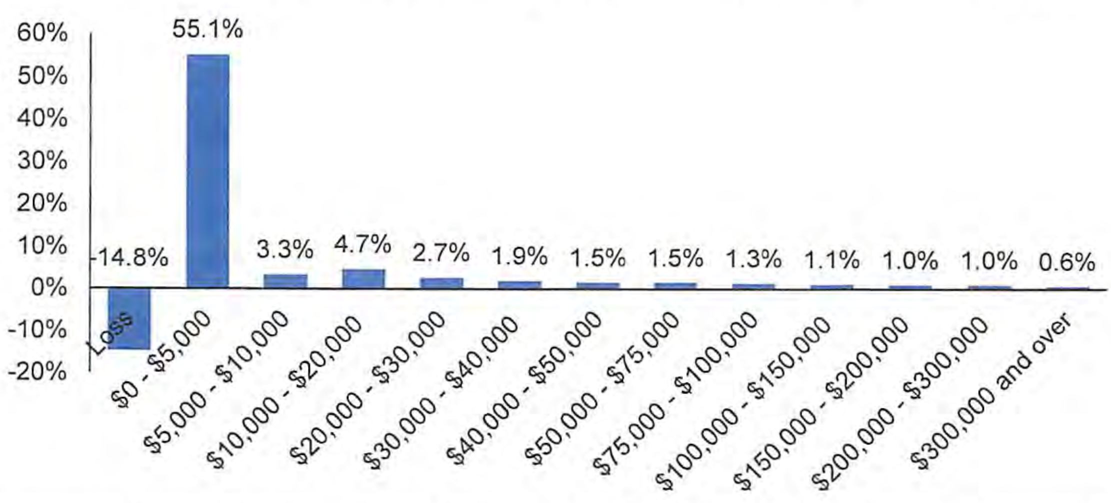


Source: US Census Bureau, American Community Survey 2015 Public Use Microdata Sample (PUMS)

As a percentage of income, property taxes in Hawaii are clearly regressive.

The ratio of property taxes to income steadily declines as incomes rise. Although comprising a very small segment of the population, homeowners making below $5,000 pay an especially large portion of their incomes in property taxes.

Figure 4: Paid Property Taxes as a Percentage of Homeowner Income by Income Range, 2015



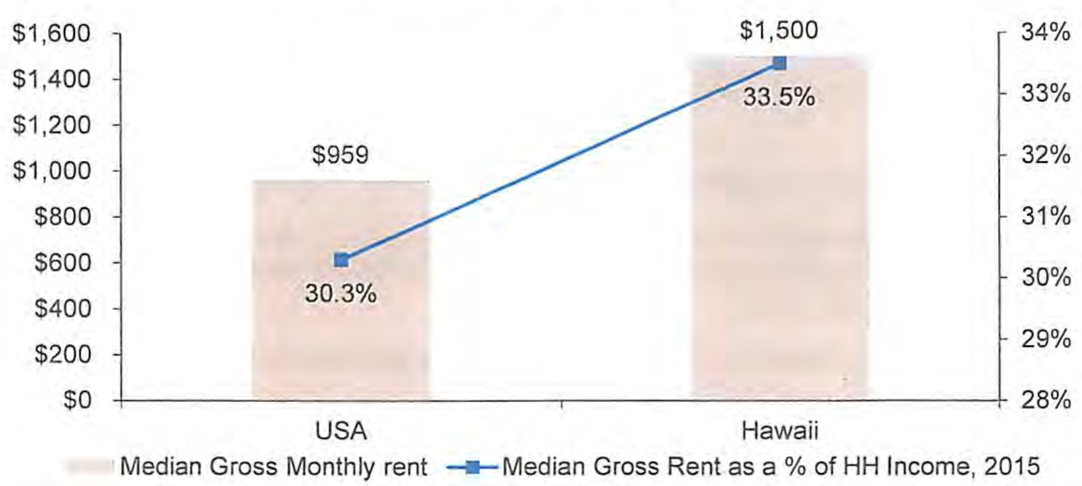
Source: US Census Bureau, American Community Survey 2015 Public Use Microdata Sample (PUMS)

Renter housing affordability is a challenge in Hawaii.

Property taxes are generally considered to be a component of overall residential housing costs for home owners. However, affordability issues related to rental housing should also be considered. Rental housing in Hawaii is very expensive; Hawaii's median gross rent (including utilities) at $1,500 is more than 56 percent above the national median. The State's median gross rent-to-household income ratio, a measure of general rent affordability, is over three percentage points above the US average. Renter housing affordability is a particularly severe challenge in Hawaii.

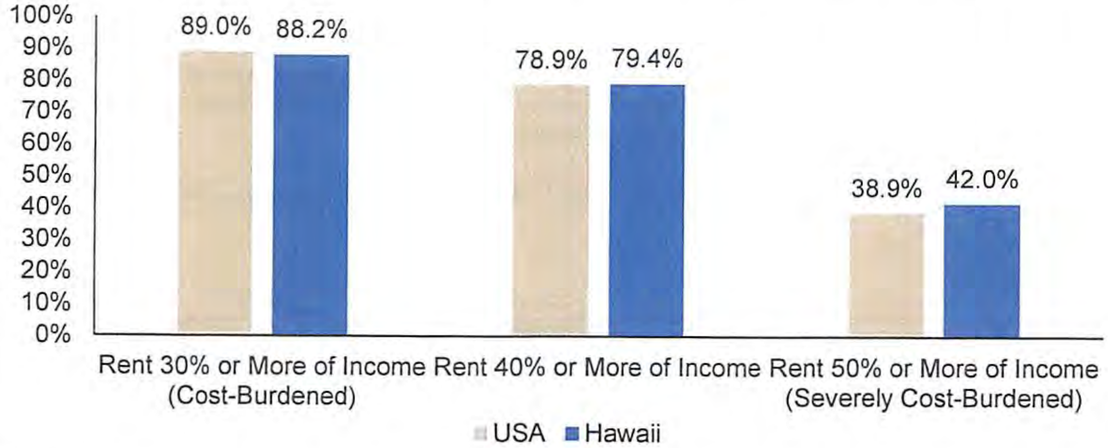
However, for low income households, the challenges are even worse. Nearly nine in ten renter households making less than $20,000 are rent cost-burdened, paying 30 percent or more of income in gross rent. Although this is slightly lower than the national average, Hawaii has a larger share of such households with ***severe*** rent burdens (50 percent or more of income) than is the national norm. Hawaii has a tax credit for low income renters; however, it is limited to $50 per exemption.

Figure 5: Median Gross Monthly Rent, 2015



Source: US Census Bureau, 2015 American Community Survey 1-Year Estimates

Figure 6: Percent Rent Cost Burdened, Renter Households Making Less than $20,000, 2015

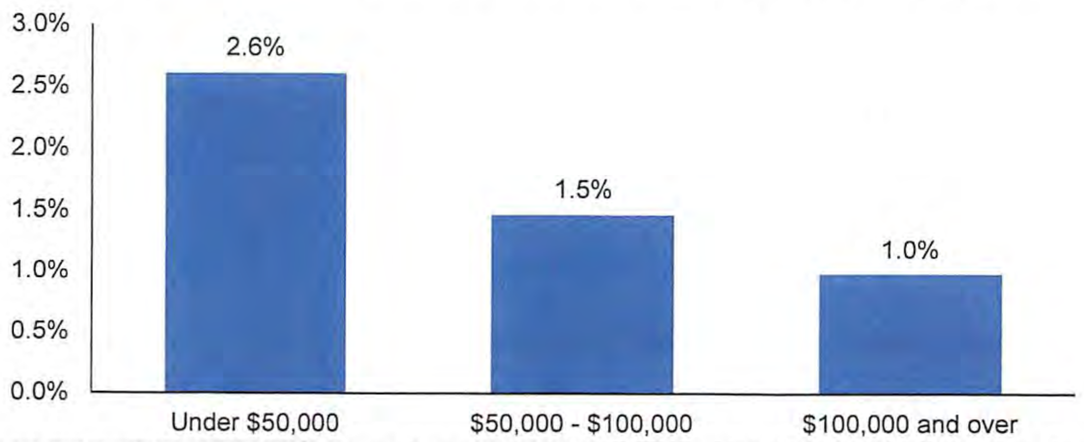


Source: US Census Bureau, 2015 American Community Survey 1-Year Estimates

The general excise tax (GET) is regressive, with the percentage of income paid as GET steadily rising as incomes decline.

Hawaii households making less than $50,000 pay roughly three cents per dollar earned in excise taxes, while those making $100,000 or more pay about one cent on the dollar. This is largely because lower income households spend more of their income on consumption expenditures subject to the GET.

Figure 7: Ratio of Excise Taxes to Household Income by Income Range, 2014

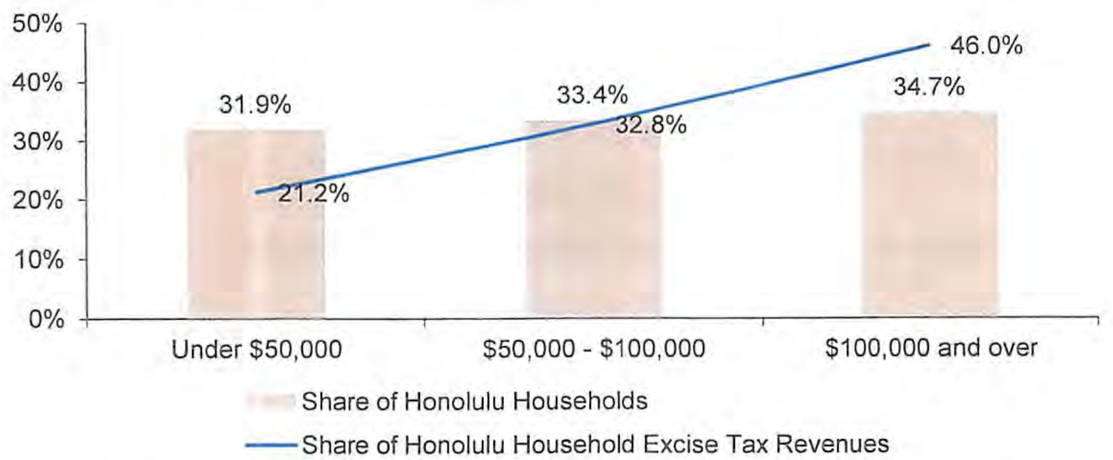


Sources: Hawaii Department of Business, Economic Development & Tourism. Honolulu Consumer Spending: 2013-2014. April 2016; US Bureau of Labor Statistics, 2015 Consumer Expenditure Survey. August 2016; US Census Bureau, American Community Survey 2014 1 Year Estimates.

In the aggregate, upper income taxpayers pay a disproportionate share of general excise taxes.

Honolulu households making under $50,000; between $50,000 and $100,000; and $100,000 and over represent nearly equal shares of Honolulu households. Those making $100,000 or more pay approximately 46 percent of the GET. This is because these households tend to spend more money ***in the aggregate*** on goods and services subject to the GET.

Figure 8: Share of Honolulu Households and Total GET Revenues by Income Range, 2013-2014



Sources: Hawaii Department of Business, Economic Development & Tourism. Honolulu Consumer Spending: 2013-2014. April 2016; US Bureau of Labor Statistics, 2015 Consumer Expenditure Survey. August 2016; US Census Bureau, American Community Survey 2014 1 Year Estimates.

A previous study done for the Commission showed that when viewed over a typical taxpayer's lifecycle, Hawaii's general excise tax structure appears less regressive.[3] This occurs because middle-aged adults tend to spend less on consumption than young adults and senior citizens, as they save for retirement. Likewise, many young adults are, because of borrowing, consuming more than their annual income and many seniors are using accumulated savings for consumption. While it's true that there are cases where a lifetime incidence analysis will show a less regressive picture, there are also many highly stressed households (and households who will be living in poverty throughout their lifetime) where, in many years, the regressive nature of the GET is very real.

Ways to Reform Hawaii's Taxes to Make Them Less Regressive

Regressivity is a key tax equity (and tax construction) issue, and it is closely linked with the previous discussion of tax burden. Tax structures and/or individual taxes are often described as being progressive, regressive or proportional. A progressive tax is one that takes a larger percentage of income from high income groups than from low income groups. A proportional tax is one that takes the same percentage of income from all income groups. A regressive tax is one that takes a larger percentage of income from low income groups than from high income groups. In practice, very few

[3] William Fox (2006). Hawaii's General Excise Tax: Should the Base be Changed? Tax Review Commission 2005-2007.

(perhaps no) taxes are designed to impose rates that increase as income decreases (which would mean there are no purely regressive taxes on their face). In practice, however, various taxes are regressive, because a greater proportion of a lower income individual's income is dedicated to paying the tax. For example, it is generally accepted that lower income individuals spend a greater percentage of their income on the tangible goods and services that are subject to the GET. As a result, the GET is considered to be a regressive tax (although the extent of that regressivity is subject to some debate). It is also notable that an overall tax structure can be regressive while some of its components are progressive – which is the case for Hawaii.

State tax structures are often viewed in combination with local taxes. This helps for comparison purposes, as States have made differing determinations of how certain services (such as K-12 education) will be provided and who (state or local governments and taxes) will pay for them. Hawaii is notable in that it is the only state that assumes nearly all the costs of K-12 education at the state level. In other states, this is generally more of a shared state and local funding responsibility.

Recent changes made by the Hawaii legislature make the State's tax structure more progressive.

Across the country, the tax that is most frequently identified as a progressive tax is the individual income tax. Most states have a progressive individual income tax, with higher marginal tax rates applying as income increases.

The individual income tax is also often used as a method to ameliorate regressive features of the overall state tax structure. That is the case in Hawaii, where a refundable credit is available to individual income taxpayers who are renters and/or pay the GET.

HB209, currently awaiting Governor Ige's signature, enacts changes to income tax rates after December 31, 2017 that increase the rate for high income taxpayers. This, of course, makes the Hawaii individual income tax more progressive and raises additional tax revenue. Additionally, the bill establishes a state earned income tax credit and repeals the sunset date for amendments made to the refundable food/excise tax credit. These are also progressive features, which are essentially paid for by the higher income tax rates for high income taxpayers.

Changes to the GET that generally increase revenue would mostly be considered regressive.

In general, excise taxes apply without regard to the taxpayer's ability to pay the tax. Additionally, the GET is broader based than many similar types of excise taxes (which, for state sales and use taxes, often exempt 'necessities' like food, utility payments and medical services that are taxed by the GET). Of course, part of the reason that the GET has been kept at relatively low rates (compared, again to other state sales and use taxes) is because the base is so broad.

Other possible measures to raise revenue are considered in the following section, in terms of their impact on regressivity.

<u>Ways to Generate More Revenue through New and Existing Sources, and through Improved Compliance with Hawaii's Tax Laws</u>

In general there are four ways to raise additional tax revenue:

1. Create a new tax
2. Expand the base of an existing tax
3. Increase the rate of an existing tax
4. Increase taxpayer compliance of an existing tax

There are advantages and disadvantages to each approach. From a tax burden/regressivity perspective, the final approach (increased compliance) has the benefit of not imposing an additional tax or increasing an existing tax's base. On the other hand, compliance rates on most major taxes are already relatively high (and further increases can be costly from an administrative perspective). As a result, tax policy changes usually focus on the first three alternatives.

The additional revenue required to fund the annual required contribution to the Employer-Union Benefits Trust Fund (EUTF) is $535 million in 2019, growing to $703 million by 2023.

In July 2013, Act 268 was signed into law. In addition to establishing the EUTF Task Force to examine further steps to address unfunded liability, the law requires the State to pay additional amounts toward reducing the unfunded liability until 2019, when 100 percent of the annual required contribution must be paid. Commencing in 2019, GET revenues will be used to fund any difference between the annual required contribution (ARC) and the payment made by the State.[4]

With this change in mind, the project team's charge, as outlined in the scope of the project, is to determine:

"how much revenue will be needed to maintain the current level of government services (tax adequacy), including unfunded or underfunded liabilities for pension and health care benefits for retired state workers...the study can take as a goal raising enough additional revenue to fund the annual required contribution (ARC) to the Employer-Union Benefits Trust Fund."

The State's 2017-2019 budget includes estimated payments of $555.9 million each year from 2017-2021.[5] Assuming that amount would have been held flat through 2023 had Act 268 not been signed into law, the additional revenue required is $535 million in 2019, increasing to more than $700 million by 2023, as shown in Table 3.

Table 3: EUTF Retiree Health Care Plan Annual Required Contribution (in Millions)

	2019	2020	2021	2022	2023
Annual Required Contribution	$1,091.0	$1,128.7	$1,173.7	$1,215.2	$1,258.5
Budgeted Contribution	$555.9	$555.9	$555.9	$555.9	$555.9
Additional Revenue Required	**$535.1**	**$572.8**	**$617.8**	**$659.3**	**$702.6**

Sources: July 1 Actuarial Valuation, State of Hawaii Budget

[4] State of Hawaii 2016 CAFR
[5] Per 2017-2019 Pension and Other Post-Employment Benefits Liability Table (Budget Appendix 6)

The project team's proposed revenue initiatives generally align with the goal of making the State's tax structure less regressive.

An oft-quoted explanation of tax policy was provided by the former French Finance Minister, Jean-Baptiste Colbert: "The art of taxation consists in so plucking the goose as to procure the largest quantity of feathers with the least possible amount of hissing." It goes without saying that any additional tax revenue is going to come with a 'deadweight loss' that will have some negative economic impacts.

As previously noted, some taxes in their application may be regressive while the structure as a whole is progressive or proportional. A well-balanced tax structure applies a variety of taxes based on consumption, income and wealth. This helps create a more stable structure than one that relies on only one primary tax source or one type of tax. It also spreads the impact throughout the economy.

The following are possible revenue raising measures, with a brief description of their overall impact on general tax policy and state tax structure. All revenue estimates are preliminary and subject to revision.

In many instances, the following alternatives were also explored in PFM's report to the 2012 Commission. However, the project team has also chosen to not analyze some of the 2012 alternatives, primarily because of concerns about regressivity.

Excise Tax Alternatives

- **Increase cigarette/tobacco tax** to $4.00 per pack (currently $3.20). This is an excise tax that is applied in all 50 states. It is considered regressive but is also a 'user tax' that has been shown to decrease consumption, particularly among younger smokers. Estimated annual impact: $20-25 million.
- **Increase beer/spirits/wine tax** by 10 percent. This is an excise tax applied in all states with a licensed retail market system. It is considered regressive as generally applied (as a tax on volume) but is also a 'user tax' that has been shown to decrease consumption. Estimated annual impact: $5 million.
- **Increase car rental tax** to $4.00 per day (currently $3.00). This is an excise tax applied in all 50 states. A significant portion of the tax is exported to visitors. Estimated annual impact: $18 million.[6]
- **Sugary beverage tax** of $0.02 per ounce.[7] This is an excise tax applied in only a few jurisdictions, most notably the City of Philadelphia (1.5 cents per ounce). It is considered a regressive tax but may have health benefits, which is currently a subject of debate. Estimated annual impact: $50 million.
- **Tax medical marijuana** at 15 percent. This is an excise tax and considered somewhat regressive. Estimated annual impact: $8-12 million.[8]
- **Institute a carbon tax**. No state has instituted this form of tax, and there is some debate as to whether it is a significantly regressive tax. However, there are positive environmental impacts. Estimated annual impact: up to $365 million, depending on the nature and extent of the tax.
- **Institute a vapor/e-cigarette tax.** Seven states and Washington DC currently impose a tax on e-cigarettes, and more than 20 others have contemplated legislation. Estimated annual impact: Less than $5 million.

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[6] Revenues from car rental taxes are deposited into a special revenue fund.
[7] Estimate includes a non-compliance adjustment of 20 percent.
[8] Estimate is incremental revenue resulting from taxation at 15 percent instead of 4.5 percent.

Transient Accommodations and Timeshare Occupancy Tax Alternatives

- **Increase the TAT** to 10.0 percent (currently 9.25 percent after expiration of reduction in 2015). An opportunity to export additional revenue. Estimated annual impact: $20-25 million.
- **Begin collecting TAT on resort fees**. An opportunity to export additional revenue. Estimated annual impact: $20-30 million.
- **Begin imposing TOT on Airbnb rentals.** An opportunity to export additional revenue. Estimated annual impact: $5-10 million.

Income Tax Alternatives

- **Move to a single 9 percent corporate net income tax rate**. Who pays corporate income tax is a subject of considerable debate. The following corporate income tax initiatives all raise revenue, but the question of who pays for them is subject to debate. Estimated annual impact: $30 million.
- **Increase corporate net income taxes** by 50 percent. Estimated annual impact: $42 million.
- **Increase corporate net gains capital rate** to 5.0 percent (currently 4.0 percent). Estimated annual impact: $5 million.
- **Eliminate exemption for pension income** over $25,000. Most states provide for some taxation of pension income; with the provision to exempt the first $25,000 of pension income, this would be considered a progressive tax feature. Estimated annual impact: $46 million.
- **Eliminate exemption for <u>foreign</u> pension income** over $25,000. Most states provide for some taxation of pension income; with the provision to exempt the first $25,000 of foreign (out of state) pension income, this would be considered a progressive tax feature. Estimated annual impact: TBD.
- **Implement a personal income tax rate recapture.** This would implement a top-rate recapture mechanism for high income taxpayers. In this approach, for taxpayers with taxable income above a certain level, which could be $100,000, the benefit of lower brackets would be phased out, and when income reaches $150,000, the taxpayer would pay the top rate on the first dollar of income. This would be a highly progressive feature. Estimated annual impact: TBD.

Property Tax Alternatives

- **Eliminate the Real Estate Tax Deduction.** This effectively reduces property tax burden by providing a deduction against income taxes. To the extent the property tax is regressive, this would increase regressivity. However, for individuals with no state income tax liability (or who do not itemize), there would be no additional tax implications from this change. As a result, it would likely be a progressive feature. Estimated annual impact: $30 million.
- **Shift certain K-12 education expenses to property taxes to lower State costs**. Because the State Constitution prohibits a state property tax, the only mechanism to increase the use of this tax (and thus reduce the use of other major taxes) would be to shift expenditures from the state to local governments. As mentioned previously, Hawaii is the only state that fully assumes the operational costs of K-12 education at the state level. Of course, any shift to property tax from more progressive taxes (such as the income tax) would be regressive – however, it would be possible to ameliorate some of these impacts through expanding refundable credits such as the GET/renter's credit. Under this initiative, the State could select specific expenditures to shift. As an example, it could shift the DOE's Public Libraries general fund operating costs to property taxes. Estimated annual impact: $35 million.

Compliance Alternatives

Compliance initiatives are important, because they can increase voluntary compliance and create greater confidence in the system by those taxpayers (who are the vast majority of Hawaiians) who pay their taxes in full and on time.

There are notable instances across the country where taxpayer compliance can be a significant issue for the amount of tax revenue that can be generated. There are taxes where 'black markets' are fostered because of taxes owed on specific products, such as cigarettes. More recently, concerns about payment of sales and use taxes owed because of online purchases has become a prominent issue for States – and also for Hawaii as it relates to the GET.

- **Increase collection of taxes related to e-commerce/online retail taxes.** This is not a new tax – it is a method of enhancing collection of an existing tax. An area with significant legislative action across the country, although the constitutionality of some recently enacted state laws is being challenged in several state and federal court cases. Estimated annual impact: $30-40 million.

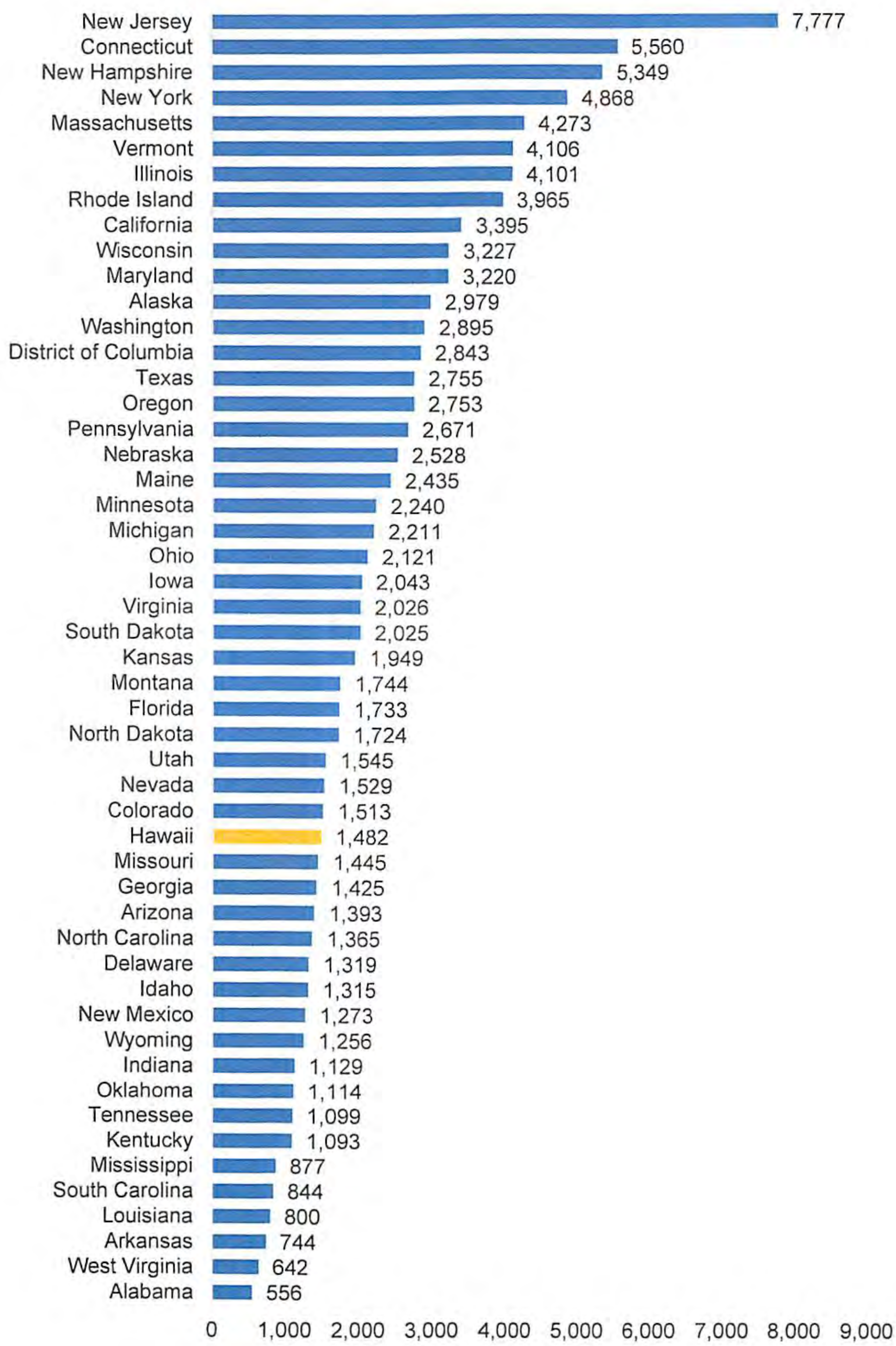
The State is in the process of implementing a data warehouse; in other states, this has provided opportunities to improve compliance and collect additional revenue. These include:

- **Tax gap programs.** Several states have increased revenue collections through use of sophisticated software connected with a fully functional data warehouse.
- **Additional audit programs.** Most studies suggest that additional audit staff is cost effective, both in finding additional tax revenue and in spurring additional voluntary compliance.

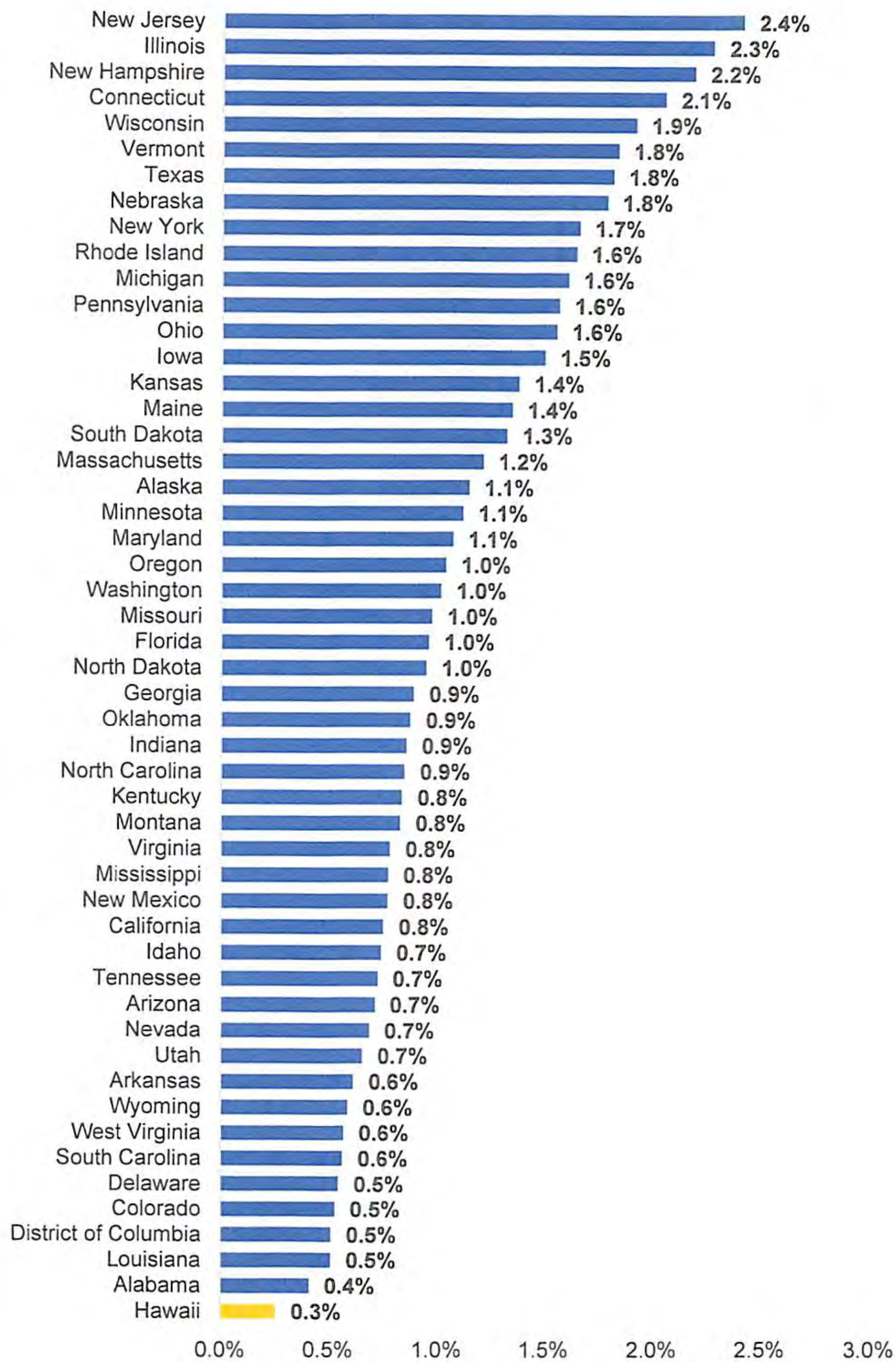
Summary

PFM looks forward to discussing these high level findings with the Commission. The PFM project team is beginning the process of creating the final report detailed outline and refining analysis of the revenue measures that are under discussion. The project team is prepared to complete the analysis and provide the written draft report within the timeframe provided to the Commission.

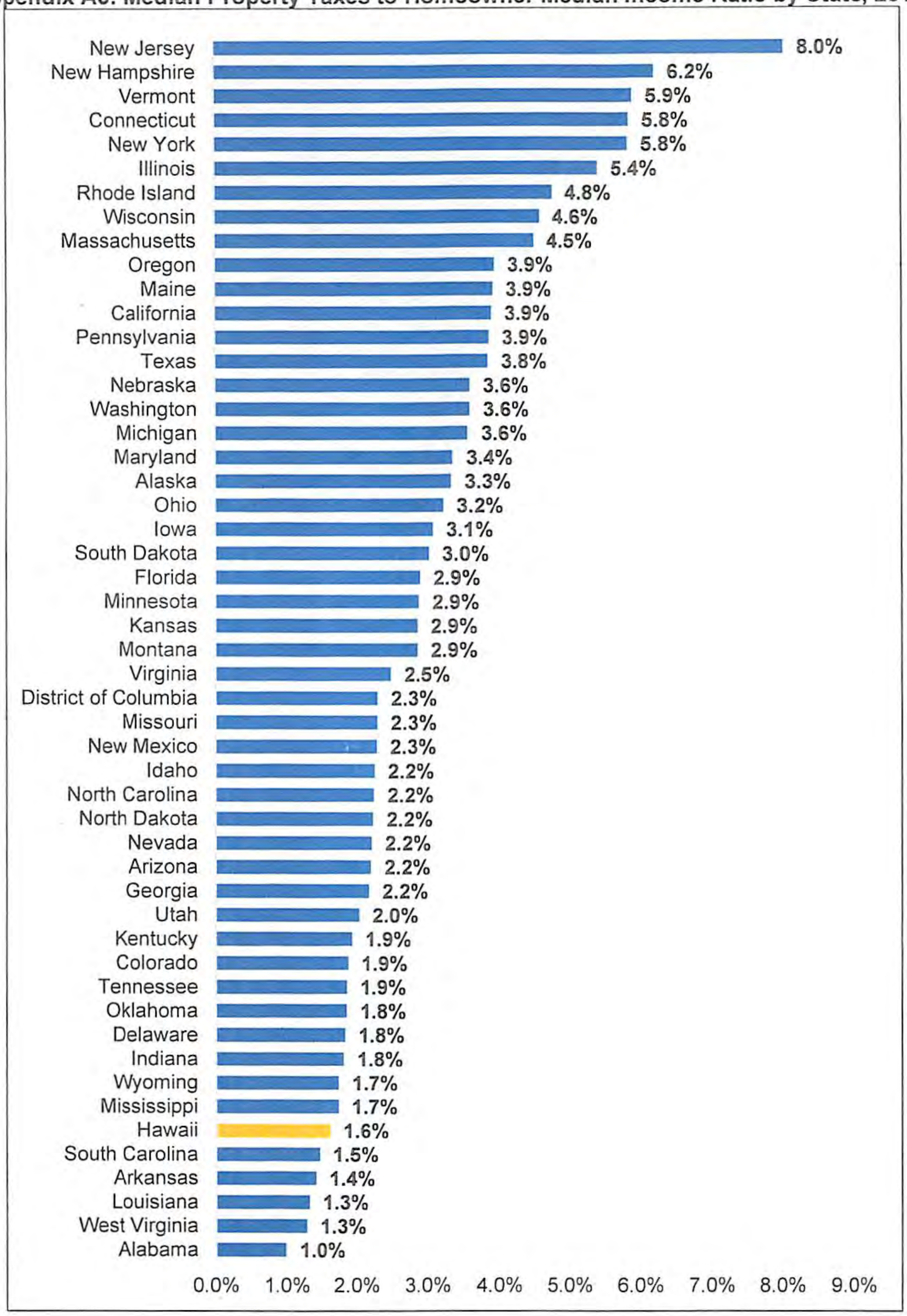
Appendix A1: Median Property Taxed Paid by State, 2015



Appendix A2: Property Tax to Home Value Ratio by State, 2015



Appendix A3: Median Property Taxes to Homeowner Median Income Ratio by State, 2015



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

No. 17-208

RESOLUTION

REQUESTING THE SUPPORT OF THE HAWAII STATE ASSOCIATION OF COUNTIES AND ITS EXECUTIVE COMMITTEE FOR THE HAWAII STATE LEGISLATURE'S APPROVAL OF AN EXTENSION OF THE HONOLULU GENERAL EXCISE AND USE TAX SURCHARGE AS NECESSARY TO ENABLE THE COMPLETION OF THE MINIMUM OPERABLE SEGMENT OF THE HONOLULU HIGH-CAPACITY TRANSIT CORRIDOR PROJECT.

WHEREAS, recent revenue and expenditure projections for the Minimum Operable Segment ("MOS") (from East Kapolei to Ala Moana Center) of the Honolulu High-Capacity Transit Corridor Project ("Rail Project") indicate that an additional $2.847 billion in revenues will be needed for the City and County of Honolulu ("City") to complete the MOS of the Rail Project; and

WHEREAS, Section 2 of Act 247, Session Laws of Hawaii ("SLH"), Regular Session of 2005, codified as Hawaii Revised Statutes ("HRS") Section 46-16.8, authorized the Honolulu City Council to establish a one-half percent Honolulu general excise and use tax surcharge ("GET surcharge") to fund the operating and capital costs of the locally preferred alternative ("LPA") for the Rail Project and related improvements to comply with the Americans with Disabilities Act ("ADA"); and

WHEREAS, the LPA would connect West Kapolei with the University of Hawaii at Manoa, going through downtown Honolulu and skirting the Daniel K. Inouye International Airport and the Ala Moana Center; and

WHEREAS, pursuant to Act 247, the Honolulu City Council enacted Ordinance 05-07, which approved the GET surcharge, effective on January 1, 2007, and which was to be repealed on December 31, 2022; and

WHEREAS, the MOS, as established by Resolution 08-261, calls for a 21-mile alignment connecting East Kapolei with the Ala Moana Center with a total of 20 transit stations; and

WHEREAS, in the Final Financial Plan for the Full Funding Grant Agreement between the City and the Federal Transit Administration, dated June 2012, the estimated cost for the Rail Project was $5.163 billion; and

WHEREAS, among other things, Section 3 of Act 240, SLH, Regular Session of 2015, amended HRS Section 46-16.8 to authorize the City to implement a five-year extension of the GET surcharge from December 31, 2022, to December 31, 2027; and

RESOLUTION

WHEREAS, on October 15, 2015, the Honolulu Authority for Rapid Transportation ("HART"), the agency charged with construction of the Rail Project, projected that the cost for the Rail Project would be $6.178 billion; and

WHEREAS, the Honolulu City Council thereafter enacted Ordinance 16-1 which, among other things, implemented the five-year extension of the GET surcharge to December 31, 2027; and

WHEREAS, recent discussions with officials of the Federal Transit Administration have indicated that the City may be required to repay the federal government for its financial contributions to the Rail Project to date if construction of the MOS is not completed as agreed upon in the Full Funding Grant Agreement; and

WHEREAS, on November 16, 2016, the Honolulu City Council passed Resolution 16-248, CD1, which reaffirmed the Honolulu City Council's support of extending the GET surcharge in order to complete the MOS of the Rail Project to Ala Moana Center; and

WHEREAS, on December 1, 2016, HART submitted the Draft Update of the Financial Plan for the Full Funding Grant Agreement, which stated that the estimated cost, with additional funding for the financing required to complete the MOS for the Rail Project, is approximately $9.5 billion, which would result in a shortfall of $2.847 billion; and

WHEREAS, during the 2017 regular legislative session, the Hawaii State Legislature ("Legislature") considered Senate Bill No. 1183 and various drafts thereof, which specified a number of funding sources to assist the City in its completion of the MOS and included proposals to further extend the GET surcharge or increase the transient accommodations tax ("TAT") by 30 percent, none of which was ultimately adopted by the Legislature; and

WHEREAS, it is anticipated that a special session of the Legislature will be held within the coming months to consider funding options to assist the City with its completion of the MOS; and

WHEREAS, the TAT is a much more volatile revenue source than the GET surcharge, thereby making it more difficult for HART to engage in any long-term planning and financing for the Rail Project; and

WHEREAS, raising the TAT would put the entire State, including all neighbor island counties, at a competitive disadvantage in regards to tourism, and could result in a ripple effect that may negatively impact small businesses in all of Hawaii's counties; and

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

No. 17-208

RESOLUTION

WHEREAS, to remain competitive, hotels may choose not to pass on the increased tax to guests and instead absorb the costs, which could lead to staffing cutbacks; and

WHEREAS, the GET surcharge is a comparatively stable funding source that is imposed only on business operations in the City, and would allow HART to engage in long-term planning for the Rail Project; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that it respectfully requests the support of the Hawaii State Association of Counties and its Executive Committee for the Hawaii State Legislature's approval of an extension of the Honolulu General Excise and Use Tax Surcharge as necessary to enable the completion of the Minimum Operable Segment of the Honolulu High-Capacity Transit Corridor Project to Ala Moana Center; and

BE IT FINALLY RESOLVED that copies of this Resolution be transmitted to each member of the Hawaii State Association of Counties Executive Committee.

INTRODUCED BY:

Councilmembers

DATE OF INTRODUCTION:

AUG - 2 2017

Honolulu, Hawaii

Resolution

No. __________

APPROVING FOR INCLUSION IN THE 2018 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE A STATE BILL TO INCREASE THE STATE MINIMUM WAGE TO $15.00 PER HOUR FOR EMPLOYERS WITH 26 EMPLOYEES OR MORE BEGINNING JANUARY 1, 2021 AND FOR EMPLOYERS WITH 25 EMPLOYEES OR LESS BEGINNING JANUARY 1, 2023

WHEREAS, per Act 82, Session Laws of Hawaii (2014), under the guidelines of Chapter 387, Hawaii Revised Statutes, and Chapter 12-20, Hawaii Administrative Rules, the State of Hawaii Department of Labor and Industrial Relations oversees minimum wage rates in Hawaii; and

WHEREAS, the State of Hawaii minimum wage rose to $9.25 per hour, effective January 1, 2017, the third increase in the minimum wage since 2015, where previously the minimum wage stayed the same for eight years from January 1, 2007 to January 1, 2015; and

WHEREAS, the seasonally adjusted unemployment rate in the State of Hawaii for February 2017 was 2.8 percent, considerably down from 4.0 percent in February 2015, which is reflective of a healthy State economy; and

WHEREAS, minimum wage increases for employers with 25 employees or less will be on a graduated 5-step scale to $15.00 per hour on January 1, 2023, taking into consideration the cost impacts on family-owned and other small businesses, especially those in rural areas; and

WHEREAS, minimum wage increases for employers with 26 employees or more will be on a graduated 3-step scale to $15.00 per hour on January 1, 2021; and

WHEREAS, tip-eligible employees will receive a credit of $1.25 per hour if the combined amount the employee receives in wages and tips is at least $7.00 more than the applicable minimum wage on January 1, 2021 for employers with 26 employees or more, and January 1, 2023 for employers with 25 employees or less; and

WHEREAS, increasing the minimum wage will continue to boost consumer demand and jobs because minimum and low-wage workers spend most, if not all, of their increased wages generating economic activity and contributing to strengthening Hawaii's economy; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That the proposed State bill, attached as Exhibit "A," to increase the State minimum wage to $15.00 per hour for employers with 26 employees or more beginning January 1, 2021, and for employers with 25 employees or less beginning January 1, 2023, is approved for inclusion in the 2018 Hawaii State Association of Counties Legislative Package; and

2. That certified copies of this resolution be transmitted to the Hawaii State Association of Counties Executive Committee.

APPROVED AS TO FORM AND LEGALITY

____

Deputy Corporation Counsel
County of Maui

paf:ske:17-173j

__.B. NO._____

A BILL FOR AN ACT

RELATING TO THE MINIMUM WAGE.

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

SECTION 1. Section 387-2, Hawaii Revised Statutes, is amended to read as follows:

"**§387-2 Minimum wages.** (a) Except as provided in section 387-9 and this section, every employer shall pay to each employee employed by the employer, wages at the rate of not less than:

(1) $6.25 per hour beginning January 1, 2003;

(2) $6.75 per hour beginning January 1, 2006;

(3) $7.25 per hour beginning January 1, 2007;

(4) $7.75 per hour beginning January 1, 2015;

(5) $8.50 per hour beginning January 1, 2016;

(6) $9.25 per hour beginning January 1, 2017; [~~and~~]

(7) $10.10 per hour beginning January 1, 2018[~~.~~];

(8) $11.10 per hour for employers with 25 employees or less, and $12.00 per hour for employers with 26 employees or more, beginning January 1, 2019;

(9) $12.25 per hour for employers with 25 employees or less, and $13.50 per hour for employers with 26 employees or more, beginning January 1, 2020;

EXHIBIT "A"

(10) $13.35 per hour for employers with 25 employees or less, and $15.00 per hour for employers with 26 employees or more, beginning January 1, 2021;

(11) $14.25 per hour for employers with 25 employees or less, beginning January 1, 2022; and

(12) $15.00 per hour for employers with 25 employees or less, beginning January 1, 2023.

(b) The hourly wage of a tipped employee may be deemed to be increased [~~on account of~~] by tips if the employee is paid not less than:

(1) 25 cents;

(2) 50 cents per hour beginning January 1, 2015;[~~and~~]

(3) 75 cents per hour beginning January 1, 2016[~~,~~]; and

(4) $1.25 per hour beginning January 1, 2021 for employers with 26 employees or more, and January 1, 2023 for employers with 25 employees or less,

below the applicable minimum wage by [~~the employee's~~] their employer and the combined amount the employee receives from [~~the employee's~~] their employer in wages and [~~in~~] tips is at least [~~50~~] 75 cents more than the applicable minimum wage; provided that beginning January 1, [~~2015,~~] 2019, the combined amount the employee receives from [~~the employee's~~] their employer in wages

__.B. NO. _____

and [~~in~~] tips is at least $7.00 more than the applicable minimum wage."

SECTION 2. Statutory material to be deleted is bracketed and in strikethrough. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

INTRODUCED BY: ______________________________

Resolution

No. ___________

APPROVING FOR INCLUSION IN THE 2018
HAWAII STATE ASSOCIATION OF COUNTIES
LEGISLATIVE PACKAGE A STATE BILL TO
INCREASE REVENUE FOR EACH COUNTY'S
AFFORDABLE HOUSING FUND THROUGH A
ONE PERCENT CONVEYANCE TAX

WHEREAS, the lack of affordable housing in every county in the State is a crisis; and

WHEREAS, each county's affordable housing situation is unique, and solutions and funding are best managed locally; and

WHEREAS, a statewide mechanism to allow each county to increase revenue for its affordable housing fund is needed; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That the proposed State bill, attached as Exhibit "A," to increase revenue for each county's affordable housing fund through a one percent conveyance tax on the sale of residential properties over $2,000,000, is approved for inclusion in the 2018 Hawaii State Association of Counties Legislative Package; and

2. That certified copies of this resolution be transmitted to the Hawaii State Association of Counties Executive Committee.

APPROVED AS TO FORM
AND LEGALITY:

EDWARD S. KUSHI, JR.
Department of the Corporation Counsel
County of Maui
2017-0098
PEA-3(1) 2017-08-28 Reso HSAC Affordable Housing Fund

__.B. NO.______

A BILL FOR AN ACT

RELATING TO THE CONVEYANCE TAX.

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

SECTION 1. Section 247-2, Hawaii Revised Statutes, is amended to read as follows:

"**§247-2 Basis and rate of tax.** The tax imposed by section 247-1 shall be based on the actual and full consideration (whether cash or otherwise, including any promise, act, forbearance, property interest, value, gain, advantage, benefit, or profit), paid or to be paid for all transfers or conveyance of realty or any interest therein, that shall include any liens or encumbrances thereon at the time of sale, lease, sublease, assignment, transfer, or conveyance, and shall be at the following rates:

(1) Except as provided in paragraph (2):

(A) Ten cents per $100 for properties with a value of less than $600,000;

(B) Twenty cents per $100 for properties with a value of at least $600,000, but less than $1,000,000;

EXHIBIT "_A "

(C) Thirty cents per $100 for properties with a value of at least $1,000,000, but less than $2,000,000;

(D) Fifty cents per $100 for properties with a value of at least $2,000,000, but less than $4,000,000;

(E) Seventy cents per $100 for properties with a value of at least $4,000,000, but less than $6,000,000;

(F) Ninety cents per $100 for properties with a value of at least $6,000,000, but less than $10,000,000; and

(G) One dollar per $100 for properties with a value of $10,000,000 or greater; and

(2) For the sale of a condominium or single family residence for which the purchaser is ineligible for a county homeowner's exemption on property tax:

(A) Fifteen cents per $100 for properties with a value of less than $600,000;

(B) Twenty-five cents per $100 for properties with a value of at least $600,000, but less than $1,000,000;

(C) Forty cents per $100 for properties with a value of at least $1,000,000, but less than $2,000,000;

(D) Sixty cents per $100 for properties with a value of at least $2,000,000, but less than $4,000,000;

(E) Eighty-five cents per $100 for properties with a value of at least $4,000,000, but less than $6,000,000;

(F) One dollar and ten cents per $100 for properties with a value of at least $6,000,000, but less than $10,000,000; and

(G) One dollar and twenty-five cents per $100 for properties with a value of $10,000,000 or greater[~~,~~]; and

(3) In addition to the rate established by paragraph (1) or (2), for the sale of a condominium or single family residence: One dollar per $100 for properties with a value of more than $2,000,000,

of such actual and full consideration; provided that in the case of a lease or sublease, this chapter shall apply only to a lease or sublease whose full unexpired term is for a period of five years or more, and in those cases, including (where appropriate) those cases where the lease has been extended or amended, the tax in this chapter shall be based on the cash value of the lease rentals discounted to present day value and capitalized at the rate of six per cent, plus the actual and full consideration paid or to be paid for any and all improvements, if any, that shall include on-site as well as off-site improvements, applicable to the leased premises; and provided further that the tax imposed for each transaction shall be not less than $1."

SECTION 2. Section 247-7, Hawaii Revised Statutes, is amended to read as follows:

"**§247-7 Disposition of taxes.** All taxes collected under this chapter shall be paid into the state treasury to the credit of the general fund of the State, to be used and expended for the purposes for which the general fund was created and exists by law; provided that of the taxes collected each fiscal year:

(1) Ten per cent of the revenue from application of the rates established in paragraph (1) and (2) of section 247-2, or $6,800,000, whichever is less, shall be paid into the land conservation fund established pursuant to section 173A-5; [~~and~~]

(2) Fifty per cent of the revenue from application of the rates established in paragraph (1) and (2) of section 247-2, or $38,000,000, whichever is less, shall be paid into the rental housing revolving fund established by section 201H-202[~~.~~]; and

(3) One hundred percent of the revenue generated in each county from application of the rate established in paragraph (3) of section 247-2 shall be paid into the respective county's affordable housing fund and shall only be used to increase the supply of affordable housing by the following means:

(A) the purchase of existing housing units and other interests in real property;

(B) the planning, design, or construction of housing units;

(C) making grants or loans to nonprofit organizations, including community land trusts; or

(D) investment in public infrastructure."

SECTION 3. Statutory material to be deleted is bracketed and in strikethrough. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval; provided that this Act shall be repealed on June 30, 2023.

INTRODUCED BY: ______________________________

paf:ske:17-173h

Resolution

No. ________

APPROVING FOR INCLUSION IN THE 2018 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE A STATE BILL TO REQUIRE ONLINE TRAVEL COMPANIES AND OTHER TRANSIENT ACCOMMODATIONS REMARKETERS TO PAY TRANSIENT ACCOMMODATIONS TAX ON THEIR RESPECTIVE PORTIONS OF GROSS RENTAL PROCEEDS FROM THE PAYMENT OF ACCOMMODATIONS

WHEREAS, since the enactment of the Transient Accommodations Tax (TAT) in 1986, the method visitors use to book reservations to stay in Hawaii has changed significantly and now includes online booking and payment through third-party websites; and

WHEREAS, amending the Transient Accommodations Tax law to require online travel companies and other transient accommodations remarketers to pay TAT on their portion of proceeds from the booking of accommodations would increase TAT revenue, to the benefit of every county in the State of Hawaii; and

WHEREAS, the share of the TAT to the counties has been capped at $93 million and the additional tax revenues generated by this proposed bill will be added to the counties' $93 million allocation; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That the proposed State bill, attached as Exhibit "A," to require online travel companies and other transient accommodations remarketers to pay transient accommodations tax on their respective portions of gross rental proceeds from the payment of accommodations, is approved for inclusion in the 2018 Hawaii State Association of Counties Legislative Package; and

2. That a copy of this resolution be transmitted to the Hawaii State Association of Counties Executive Committee.

APPROVED AS TO FORM
AND LEGALITY:

EDWARD S. KUSHI, JR.
Department of the Corporation Counsel
County of Maui
2017-0098
PEA-3(1) 2017-08-28 Reso HSAC TAT

__.B. NO.____

A BILL FOR AN ACT

RELATING TO TRANSIENT ACCOMMODATIONS TAX.

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

PART I

SECTION 1. Since the enactment of Act 340 in 1986, visitors to Hawaii have paid a tax on the retail value of their lodging. Known as the "transient accommodations tax," or "TAT," the tax is assessed and collected by the operator on the gross rental proceeds derived from furnishing transient accommodations to visitors. Operators are obligated to impose the TAT, collect it from visitors, and pay the tax to the State each month. TAT revenues are then used to support the Hawaii Convention Center; allocated to a special fund to protect, preserve, and maintain natural resources, including beaches, important to the visitor industry; and distributed to the counties to help support services relied upon by tourists such as police and fire protection, ocean safety personnel, parks, water, sewer, and roadways.

Act 340 was written prior to the explosion of internet sales of hotel rooms and fails to capture all required TAT owed to the State. There are a variety of ways visitors can book

EXHIBIT "A"

hotel rooms, such as pre-paying their hotel stays through Online Travel Companies ("OTCs"). Wholesale travel companies and OTCs contract for rooms with hotels at wholesale rates, add their mark-up, and then resell rooms to guests. Hotels may only know the wholesale, or net, rental rate paid for the room by the OTCs and not the full retail rate paid by the guest. OTCs are billed for rooms at the wholesale rate and the TAT is collected by hotels and paid to the State based on this discounted rate. With each online transaction processed in this way, the State loses the difference in tax between the wholesale or net rental rate and the full retail or gross rental rate.

The purpose of this Act is to ensure the State receives the full amount of TAT calculated based upon the full or gross rental price paid by the visitor, whether that amount is collected by the local Hawaii operator, travel agent, wholesale travel company, or online by an OTC.

PART II

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

"**§237D-1 Definitions.** Whenever used in this chapter, unless the context otherwise requires:

"Department" means the department of taxation.

"Director" means the director of taxation.

"Fair market rental value" means an amount equal to one-half of the gross daily maintenance fees that are paid by the owner and are attributable to the time share unit located in Hawaii. Gross daily maintenance fees include maintenance costs, operational costs, insurance, repair costs, administrative costs, taxes, other than transient accommodations taxes, resort fees, and other costs including payments required for reserves or sinking funds. Amounts paid for optional goods and services such as food and beverage services or beach chair or umbrella rentals shall be excluded from fair market rental value.

"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 transient accommodations remarketer or travel agency [~~or tour packager~~] as defined under section 468L-1 at noncommissioned negotiated contract rates and the gross income is divided between the operator of transient accommodations on the one hand and the transient accommodations remarketer, or 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,~~] the tax imposed by this chapter shall apply to each such person with respect to such person's respective portion of the proceeds, 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.

"Lease", "let", or "rental" means the leasing or renting of living quarters or sleeping or housekeeping accommodations in hotels, apartment hotels, motels, condominium property regimes or apartments defined in chapter 514A or units defined in chapter 514B, cooperative apartments, rooming houses, or other places in which lodgings are regularly furnished to transients for a consideration, without transfer of the title of such property.

"Local contact" means an individual residing on the same island as the transient accommodation or resort time share vacation unit or an entity with a place of business and at least one employee, officer, partner, member, or other person working on behalf of the company who is residing on the same island as the transient accommodation or resort time share vacation unit.

"Occupant" means an owner of a resort time share vacation plan or other person occupying the resort time share vacation unit.

"Operator" means any person operating a transient accommodation, whether as owner or proprietor or as lessee, sublessee, mortgagee in possession, licensee, or otherwise, or engaging or continuing in any service business which involves the actual furnishing of transient accommodation.

"Owner" means any person who owns a resort time share vacation interest; provided that to the extent and for those purposes provided in an agreement of sale, the vendee under the agreement of sale shall be considered the owner of the resort time share vacation interest.

"Plan manager" means a person who undertakes the duties, responsibilities, and obligations of managing a resort time share vacation plan or is required to act for a resort time share vacation plan under this chapter.

"Resort time share vacation interest" means any interest in a resort time share vacation unit or plan which entitles the owner thereof to the use, occupancy, or possession of a resort time share vacation unit on a periodically recurring basis.

"Resort time share vacation plan" means any plan or program subject to chapter 514E in which the use, occupancy, or possession of one or more resort time share vacation units circulates among various persons for less than a sixty-day period in any year, for any occupant. The term resort time share vacation plan includes both resort time share vacation ownership plans and resort time share vacation use plans, as follows:

(1) "Resort time share vacation ownership plan" means any arrangement whether by tenancy in common, sale, deed, or by other means, whereby the purchaser receives an ownership interest and the right to use the property for a specific or discernible period by temporal division.

(2) "Resort time share vacation use plan" means any arrangement, excluding normal hotel operations, whether by membership agreement, lease, rental agreement, license, use agreement, security, or other means, whereby the purchaser receives a right to use accommodations or facilities, or both, in a resort time share vacation unit for a specific or discernible period by temporal

division, but does not receive an ownership interest.

"Resort time share vacation unit" means the actual and promised accommodations, and related facilities, which are the subject of a resort time share vacation plan.

"Transient accommodations" means the furnishing of a room, apartment, suite, single family dwelling, or the like to a transient for less than one hundred eighty consecutive days for each letting in a hotel, apartment hotel, motel, condominium property regime or apartment as defined in chapter 514A or unit as defined in chapter 514B, cooperative apartment, dwelling unit, or rooming house that provides living quarters, sleeping, or housekeeping accommodations, or other place in which lodgings are regularly furnished to transients.

"Transient accommodations [~~broker~~] remarketer" means any person or entity, including but not limited to persons who operate online websites, online travel agencies, or online booking agencies, that offers, lists, advertises, or accepts reservations or collects whole or partial payment for transient accommodations or resort time share vacation interests, units, or plans."

SECTION 3. Section 237D-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Every operator, transient accommodations remarketer or travel agency, who collect whole or partial payment for transient accommodations shall pay to the State the tax imposed by subsection (a), as provided in this chapter."

SECTION 4. Section 237D-4, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) Failure to meet the requirements of subsection (c) shall be unlawful. The department may issue citations to any person, including operators, plan managers, travel agencies and transient accommodations [~~brokers~~] remarketers, who violates subsection (c). A citation issued pursuant to this subsection for each transient accommodation or resort time share vacation interest, plan, or unit in violation of subsection (c) shall include a monetary fine of not less than:

(1) $500 per day, for a first violation for which a citation is issued;

(2) $1,000 per day, for a second violation for which a citation is issued; and

(3) $5,000 per day, for a third and any subsequent violation for which a citation is issued."

SECTION 5. Section 237D-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) On or before the twentieth day of each calendar month, every [~~operator taxable, or plan manager~~] <u>taxpayer</u> liable 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-6.5. Sections 237-30 and 237-32 shall apply to returns and penalties made under this chapter to the same extent as if the sections were set forth specifically in this section."

SECTION 6. Section 237D-6.5, Hawaii Revised Statutes, is amended to read as follows:

"**§237D-6.5 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) Revenues collected under this chapter shall be distributed in the following priority, with the excess revenues to be deposited into the general fund:

(1) $1,500,000 shall be allocated to the Turtle Bay conservation easement special fund beginning July 1, 2015, for the reimbursement to the state general fund of debt service on reimbursable general obligation bonds, including ongoing expenses related to the issuance of the bonds, the proceeds of which were used to acquire the conservation easement and other real property interests in Turtle Bay, Oahu, for the protection, preservation, and enhancement of natural resources important to the State, until the bonds are fully amortized;

(2) $26,500,000 shall be allocated to the convention center enterprise special fund established under section 201B-8;

(3) $82,000,000 shall be allocated to the tourism special fund established under section 201B-11; provided that:

(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;

(B) Of the $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; 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 special fund, established in section 201B-10, in a manner sufficient to maintain a fund balance of $5,000,000 in the tourism emergency special fund;

(4) $103,000,000 for fiscal year 2014-2015, $103,000,000 for fiscal year 2015-2016, $103,000,000 for fiscal year 2016-2017, and $93,000,000 for each fiscal year thereafter shall be 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 commencing with fiscal year 2018-2019, a sum that represents the difference between a county public employer's annual required contribution for the separate trust fund established under section 87A-42 and the amount of the county public employer's contributions into that trust fund shall be retained by the state director of finance and deposited to the credit of the county public employer's annual required contribution

into that trust fund in each fiscal year, as provided in section 87A-42, if the respective county fails to remit the total amount of the county's required annual contributions, as required under section 87A-43; and

(5) $3,000,000 shall be allocated to the special land and development fund established under section 171-19; provided that the allocation shall be expended in accordance with the Hawaii tourism authority strategic plan for:

(A) The protection, preservation, maintenance, and enhancement of natural resources, including beaches, important to the visitor industry;

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

(C) Operation and maintenance costs of public lands, including beaches, connected with enhancing the visitor experience.

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.

(c) In addition to the taxes apportioned to the counties in subsection (b)(4), any TAT collected from transient accommodations remarketers or travel agencies shall be paid to the counties in the same percentage as set forth in subsection (b)(4).

[~~(c)~~] (d) 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 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 7. Section 237D-7, Hawaii Revised Statutes, is amended to read as follows:

"**§237D-7 Annual return.** On or before the twentieth day of the fourth month following the close of the taxable year, every person who has become liable for the payment of the taxes under this chapter during the preceding tax year shall file a return summarizing that person's liability under this chapter for the year, in such form as the director prescribes. The [~~operator or plan manager~~] taxpayer shall transmit with the return a remittance covering the residue of the tax chargeable to the [~~operator or plan manager~~] taxpayer, if any, to the office of the appropriate state district tax assessor designated in section 237D-8. The return shall be signed by the taxpayer, if made by an individual, or by the president, vice-president, secretary, or treasurer of a corporation, if made on behalf of a corporation. If made on behalf of a partnership, firm, society, unincorporated association, group, hui, joint adventure, joint stock company, corporation, trust estate, decedent's estate, trust, or other entity, any individual delegated by the entity shall sign the same on behalf of the taxpayer. If for any reason it is not practicable for the individual taxpayer to sign the return, it may be done by any duly authorized agent. The department, for good cause shown, may extend the time for making the return on the application of any taxpayer and grant such reasonable additional time within which to make the return as the department may deem advisable.

Section 232-2 applies to the annual return, but not to a monthly return."

SECTION 8. Section 237D-9, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) If any [~~operator or plan manager~~] taxpayer fails to make a return as required by this chapter, the director shall make an estimate of the tax liability of the [~~operator or plan manager~~] taxpayer from any information the director obtains, and according to the estimate so made, assess the taxes, interest, and penalty due the State from the [~~operator or plan manager~~] taxpayer, give notice of the assessment to the [~~operator or plan manager~~] taxpayer, and make demand upon the [~~operator or plan manager~~] taxpayer for payment. The assessment shall be presumed to be correct until and unless, upon an appeal duly taken as provided in section 237D-11, the contrary shall be clearly proved by the person assessed, and the burden of proof upon such appeal shall be upon the person assessed to disprove the correctness of assessment."

SECTION 9. Section 237D-10, Hawaii Revised Statutes, is amended to read as follows:

"**§237D-10 Overpayment; refunds.** Upon application by [~~an operator or plan manager~~] a taxpayer, if the director determines that any tax, interest, or penalty has been paid more than once, or has been erroneously or illegally collected or computed, the tax, interest, or penalty shall be credited by the director on any taxes then due from the [~~operator or plan manager~~] taxpayer under this chapter. The director shall refund the balance to the [~~operator or plan manager~~] taxpayer or the [~~operator's or plan manager's~~] taxpayer's successors, administrators, executors, or assigns in accordance with section 231-23. No credit or refund shall be allowed for any tax imposed by this chapter, unless a claim for such credit or refund is filed as follows:

(1) If an annual return is timely filed, or is filed within three years after the date prescribed for filing the annual return, then the credit or refund shall be claimed within three years after the date the annual return was filed or the date prescribed for filing the annual return, whichever is later.

(2) If an annual return is not filed, or is filed more than three years after the date prescribed for filing the annual return, a claim for credit or refund shall be filed within:

(A) Three years after the payment of the tax; or

(B) Three years after the date prescribed for the filing of the annual return, whichever is later.

Paragraphs (1) and (2) are mutually exclusive. The preceding limitation shall not apply to a credit or refund pursuant to an appeal, provided for in section 237D-11.

As to all tax payments for which a refund or credit is not authorized by this section (including, without prejudice to the generality of the foregoing, cases of unconstitutionality), the remedies provided by appeal or by section 40-35 are exclusive."

SECTION 10. Section 237D-12, Hawaii Revised Statutes, is amended to read as follows:

"**§237D-12 Records to be kept; examination.** Every [~~operator and plan manager~~] taxpayer shall keep in the English language within the State, and preserve for a period of three years, suitable records of gross rental, gross rental proceeds, or fair market rental value relating to the business taxed under this chapter, and such other books, records of account, and invoices as may be required by the department, and all such books, records, and invoices shall be open for examination at any time by the department or the Multistate Tax Commission pursuant to chapter 255, or the authorized representative thereof."

SECTION 11. Statutory material to be deleted is bracketed and in strike through. New statutory material is underscored.

SECTION 12. This Act shall take effect on July 1, 2018.

INTRODUCED BY:_____________________________

TWENTY-NINTH LEGISLATURE, 2017
STATE OF HAWAIʻI

__.B. NO.______

A BILL FOR AN ACT

RELATING TO TRANSIENT ACCOMMODATIONS TAX.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAIʻI:

SECTION 1. The purpose of this Act is to eliminate the cap established for the distribution of transient accommodations tax revenues to the counties.

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

"(b) Revenues collected under this chapter shall be distributed in the following priority, with the excess revenues to be deposited into the general fund:

(1) $1,500,000 shall be allocated to the Turtle Bay conservation easement special fund beginning July 1, 2015, for the reimbursement to the state general fund of debt service on reimbursable general obligation bonds, including ongoing expenses related to the issuance of the bonds, the proceeds of which were used to acquire the conservation easement and other real property interests in Turtle Bay, Oʻahu, for the protection, preservation, and enhancement

of natural resources important to the State, until the bonds are fully amortized;

(2) $26,500,000 shall be allocated to the convention center enterprise special fund established under section 201B-8;

(3) $82,000,000 shall be allocated to the tourism special fund established under section 201B-11; provided that:

(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;

(B) Of the $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 Hawai'i Tourism Strategic Plan 2005-2015; 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 special fund, established in section 201B-10, in a manner sufficient to maintain a fund balance of $5,000,000 in the tourism emergency special fund;

(4) [$103,000,000 for fiscal year 2014-2015, $103,000,000 for fiscal year 2015-2016, $103,000,000 for fiscal year 2016-2017, and $93,000,000 for each fiscal year thereafter] <u>44.8 percent of the revenues collected under this chapter after revenues have been deposited as provided in this section</u> shall be allocated <u>to the counties and distributed</u> as follows: Kaua‘i County shall receive 14.5 per cent, Hawai‘i 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 commencing with Fiscal Year 2018-2019, a sum that represents the difference between a County public employer's annual required contribution for the separate trust fund established under Section 87A-42 and the amount of the County public employer's contributions into that trust fund shall be retained by the State Director of Finance and deposited to the credit of the County public employer's annual required

contribution into that trust fund in each fiscal year, as provided in Section 87A-42, if the respective county fails to remit the total amount of the county's required annual contributions, as required under Section 87A-43;

(5) $3,000,000 shall be allocated to the special land and development fund established under Section 171-19; provided that the allocation shall be expended in accordance with the Hawaii tourism authority strategic plan for:

(A) The protection, preservation, maintenance, and enhancement of natural resources, including beaches, important to the visitor industry;

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

(C) Operation and maintenance costs of public lands, including beaches, connected with enhancing the visitor experience; and

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

SECTION 3. This Act shall take effect upon its approval.

INTRODUCED BY:

__.B. NO. _____

Report Title:
Transient Accommodations Tax

Description:
Removes the cap for distribution of transient accommodations tax revenues to the counties.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

TWENTY-NINTH LEGISLATURE, 2017
STATE OF HAWAI'I

__.B. NO.______

A BILL FOR AN ACT

RELATING TO FIRE SPRINKLERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAI'I:

SECTION 1. The legislature finds that fire sprinklers in one- or two-family dwellings are rare in the State. One reason for the lack of fire sprinklers in one- or two-family dwellings is the cost of installing fire sprinklers. The legislature finds that an incentive is needed to promote the installation of fire sprinklers in one- or two-family dwellings in the State.

The purpose of this Act is to provide an incentive to install an automatic fire sprinkler or automatic fire sprinkler system in any new detached one- or two-family dwelling unit that is in a structure which is used only for residential purposes by establishing a tax credit comprising a percentage of the actual costs of the system, including installation.

SECTION 2. Section 235, Hawai'i Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"**§235-___ Tax credit to promote the installation of fire sprinklers in residences.** (a) Any qualifying taxpayer who files an individual income tax return for a taxable year may claim an income tax credit under this section against the Hawai'i state individual net income tax.

(b) The tax credit may be claimed for every eligible automatic fire sprinkler or system that is installed and placed in service by the taxpayer during the taxable year in any new detached one- or two-family dwelling unit that is in a structure which is used only for residential purposes. For each automatic fire sprinkler or system, the tax credit that may be claimed shall be twenty-five per cent of the actual cost of the system, including installation costs; provided that multiple owners of a single automatic fire sprinkler or system shall be entitled to a single tax credit; and provided further that the tax credit shall be apportioned between the owners in proportion to their contribution to the cost of the automatic fire sprinkler or system.

(c) If the tax credit claimed by the taxpayer under this section exceeds the amount of the income tax payments due from the taxpayer, the excess of credit over payments due shall be refunded to the taxpayer; provided that the tax credit properly claimed by a taxpayer who has no income tax liability shall be paid to the taxpayer; and provided that no refunds or payments on account of the tax credit allowed by this section shall be made for amounts less than $1.

(d) The director of taxation shall prepare such forms as may be necessary to claim a credit under this section, may require proof of the claim for the tax credit, and may adopt rules pursuant to chapter 91.

(e) All of the provisions relating to assessments and refunds under this chapter and under section 231-23(c)(1) shall apply to the tax credit under this section.

(f) Claims for the tax credit under this section, including any amended claims, shall be filed on or before the end of the twelfth month following the taxable year for which the credit may be claimed."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval and shall apply to taxable years beginning after December 31, 2017; provided that this Act shall be repealed on June 30, 2025.

INTRODUCED BY:

__.B. NO. _____

Report Title:
Fire Sprinklers; Tax Credit

Description:
Establishes a tax credit of twenty-five per cent of the total cost, including installation, of an automatic fire sprinkler or automatic fire sprinkler system in any new detached one- or two-family dwelling unit in a structure used only for residential purposes. Sunsets on June 30, 2025.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

TWENTY-NINTH LEGISLATURE, 2017
STATE OF HAWAIʻI

__.B. NO.______

A BILL FOR AN ACT

RELATING TO TAXATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAIʻI:

SECTION 1. Section 235, Hawaiʻi Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"**§235-___ Income tax credit for hiring an individual with a disability.** (a) There shall be allowed to each taxpayer subject to the tax imposed by this chapter, a credit for the hiring of an individual with a disability that shall be deductible from the taxpayer's net income tax liability, if any, imposed by this chapter for the taxable year in which the credit is properly claimed.

(b) The amount of the credit shall be equal to fifty per cent of the qualified wages for the first six months after an individual with a disability is initially hired. A tax credit that exceeds the taxpayer's income tax liability may be used as a credit against the taxpayer's income tax liability in subsequent years until exhausted; provided that in no taxable year shall the total amount of the tax credit claimed under this section exceed $______ per taxpayer.

(c) Certification of an individual with a disability for the purpose of claiming a credit under this section shall be submitted to the department of taxation on forms prescribed by the department of taxation.

(d) An individual shall not be treated as an individual with a disability unless, on or before the day on which the individual begins work for the employer, the employer has received certification from a qualified physician. If an individual has been certified as an individual with a disability and the certification is incorrect because it was based on false information provided by the individual, the certification shall be revoked and wages paid by the employer after the date on which notice of revocation is received by the employer shall not be treated as qualified wages.

In any request for a certification of an individual as an individual with a disability, the employer shall certify that a good faith effort was made to determine that such individual is an individual with a disability.

(e) The following wages paid to an individual with a disability are ineligible to be claimed by the employer for this credit:

(1) No wages shall be taken into account under this section with respect to an individual with a disability who:

a. Bears any of the relationships described in section 152(d)(2)(A) through (G) of the Internal Revenue Code to the taxpayer, or, if the taxpayer is a corporation, to an individual who owns, directly or indirectly, more than fifty per cent in value of the outstanding stock of the corporation (determined with the application of Section 267(c) of this Internal Revenue Code);

b. If the taxpayer is an estate or trust, is a grantor, beneficiary, or fiduciary of the estate or trust, or is an individual who bears any of the relationships described in Section 152(d)(2)(A) through (G) of the Internal Revenue Code to a grantor, beneficiary or fiduciary of the estate or trust; or

c. Is a dependent (described in Section 152(d)(2)(H) of the Internal Revenue Code) of the taxpayer, or, if the taxpayer is an estate or trust, of a grantor, beneficiary, or fiduciary of the estate or trust; and

(2) No wages shall be taken into account under this section with respect to any individual with a disability if, prior to the day the individual is hired by the employer, the individual had been employed by the employer at any time.

(f) In the case of a successor employer referred to in Section 3306(b)(1) of the Internal Revenue Code, the determination of the amount of the tax credit allowable under this section with respect to wages paid by the successor employer shall be made in the same manner as if the wages were paid by the predecessor employer referred to in the section.

(g) Claims for the tax credit under this section, including any amended claims, shall be filed on or before the end of the twelfth month following the taxable year for which the credit may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the tax credit.

(h) The Director of Taxation:

(1) Shall prepare any forms necessary to claim a credit under this section;

(2) May require a taxpayer to furnish reasonable information to ascertain the validity of a claim for credit; and

(3) May adopt rules pursuant to Chapter 91 to effectuate the purposes of this Section.

(i) For purposes of this section:

"Individual with a disability" means an individual having a physical or intellectual impairment that substantially limits one or more major life activities, having a record of that impairment, or being regarded as having that impairment; provided that the disabling impairment is certified by a qualified physician.

"Qualified physician" means:

(1) A physician or osteopathic physician licensed under Chapter 453;

(2) A qualified out-of-state physician who is currently licensed to practice in the state in which the physician resides; or

(3) A commissioned medical officer in the United States Army, Navy, Marine Corps, or Public Health Service, engaged in the discharge of one's official duty.

"Qualified wages" means wages attributable to work rendered by an individual with a disability for the six-month period after the individual is initially hired.

"Wages" means wages, commissions, fees, salaries, bonuses, and every and all other kinds of remuneration for, or compensation attributable to, services performed by an employee for the employee's employer, including the cash value of all remuneration paid in any medium other than cash and the cost-of-living allowances and other payments included in gross income by Section 235-7(b), but excluding income excluded from gross income by Section 235-7 or other provisions of this chapter."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act, upon its approval, shall apply to taxable years beginning after December 31, 2017.

INTRODUCED BY:

__.B. NO. _____

Report Title:
Individual with a Disability; Employment; Income Tax Credit

Description:
Provides a taxpayer who hires an individual with a disability a nonrefundable tax credit for the six-month period after the individual is initially hired by the taxpayer.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

TWENTY-NINTH LEGISLATURE, 2017
STATE OF HAWAI‘I

__.B. NO.______

A BILL FOR AN ACT

RELATING TO TAXATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAI‘I:

SECTION 1. Section 235, Hawai‘i Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"**§235-___ Income tax credit for hiring an elderly individual.**

(a) There shall be allowed to each taxpayer subject to the tax imposed by this chapter, a credit for the hiring of an elderly individual that shall be deductible from the taxpayer's net income tax liability, if any, imposed by this chapter for the taxable year in which the credit is properly claimed.

(b) The amount of the credit shall be equal to fifty per cent of the qualified wages for the first six months after the elderly individual is initially hired. A tax credit that exceeds the taxpayer's income tax liability may be used as a credit against the taxpayer's income tax liability in subsequent years until exhausted; provided that in no taxable year shall the total amount of the tax credit claimed under this section exceed $______ per taxpayer.

(c) The following wages paid to an elderly individual are ineligible to be claimed by the employer for this credit:

(1) No wages shall be taken into account under this section with respect to an elderly individual who:

a. Bears any of the relationships described in section 152(d)(2)(A) through (G) of the Internal Revenue Code to the taxpayer, or, if the taxpayer is a corporation, to an individual who owns, directly or indirectly, more than fifty per cent in value of the outstanding stock of the corporation (determined with the application of section 267(c) of this Internal Revenue Code);

b. If the taxpayer is an estate or trust, is a grantor, beneficiary, or fiduciary of the estate or trust, or is an individual who bears any of the relationships described in section 152(d)(2)(A) through (G) of the Internal Revenue Code to a grantor, beneficiary or fiduciary of the estate or trust; or

c. Is a dependent (described in section 152(d)(2)(H) of the Internal Revenue Code) of the taxpayer, or, if the taxpayer is an estate or trust, of a grantor, beneficiary, or fiduciary of the estate or trust; and

(2) No wages shall be taken into account under this section with respect to any elderly individual if, prior to the day the individual is hired by the employer, the individual had been employed by the employer at any time.

(d) In the case of a successor employer referred to in section 3306(b)(1) of the Internal Revenue Code, the determination of the amount of the tax credit allowable under this section with respect to wages paid by the successor employer shall be made in the same manner as if the wages were paid by the predecessor employer referred to in the section.

(e) Claims for the tax credit under this section, including any amended claims, shall be filed on or before the end of the twelfth month following the taxable year for which the credit may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the tax credit.

(f) The director of taxation:

(1) Shall prepare any forms necessary to claim a credit under this section;

(2) May require a taxpayer to furnish reasonable information to ascertain the validity of a claim for credit; and

(3) May adopt rules pursuant to chapter 91 to effectuate the purposes of this section.

(f) For purposes of this section:

"Elderly individual" means an individual who is sixty-seven years of age or older.

"Qualified wages" means wages attributable to work rendered by an elderly individual for the six-month period after the individual is initially hired.

"Wages" means wages, commissions, fees, salaries, bonuses, and every and all other kinds of remuneration for, or compensation attributable to, services performed by an employee for the employee's employer, including the cash value of all remuneration paid in any medium other than cash and the cost-of-living allowances and other payments included in gross income by section 235-7(b), but excluding income excluded from gross income by section 235-7 or other provisions of this chapter."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act, upon its approval, shall apply to taxable years beginning after December 31, 2017.

INTRODUCED BY:

__.B. NO. _____

Report Title:
Taxation; Income Tax Credit; Elderly

Description:
Provides a taxpayer who hires an elderly individual a nonrefundable tax credit for the six-month period after the individual is initially hired by the taxpayer.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

TWENTY-NINTH LEGISLATURE, 2017
STATE OF HAWAI‘I

__.B. NO.______

A BILL FOR AN ACT

RELATING TO ZONING

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAI‘I:

SECTION 1. Section 46-4, Hawai‘i Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) This section and any ordinance, rule, or regulation adopted in accordance with this section shall apply to lands not contained within the forest reserve boundaries as established on January 31, 1957, or as subsequently amended.

Zoning in all counties shall be accomplished within the framework of a long-range, comprehensive general plan prepared or being prepared to guide the overall future development of the county. Zoning shall be one of the tools available to the county to put the general plan into effect in an orderly manner. Zoning in the counties of Hawai‘i, Maui, and Kaua‘i means the establishment of districts of such number, shape, and area, and the adoption of regulations for each district to carry out the purposes of this section. In establishing or regulating the districts, full consideration shall be given to all available data as to soil classification and physical use capabilities of the land to allow and encourage the most beneficial use of the land consonant with good zoning practices. The zoning power granted herein shall be exercised by ordinance which may relate to:

(1) The areas within which agriculture, forestry, industry, trade, and business may be conducted;

(2) The areas in which residential uses may be regulated or prohibited;

(3) The areas bordering natural watercourses, channels, and streams, in which trades or industries, filling or dumping, erection of structures, and the location of buildings may be prohibited or restricted;

(4) The areas in which particular uses may be subjected to special restrictions;

(5) The location of buildings and structures designed for specific uses and designation of uses for which buildings and structures may not be used or altered;

(6) The location, height, bulk, number of stories, and size of buildings and other structures;

(7) The location of roads, schools, and recreation areas;

(8) Building setback lines and future street lines;

(9) The density and distribution of population;

(10) The percentage of a lot that may be occupied, size of yards, courts, and other open spaces;

(11) Minimum and maximum lot sizes; and

(12) Other regulations the boards or city council find necessary and proper to permit and encourage the orderly development of land resources within their jurisdictions.

The council of any county shall prescribe rules, regulations, and administrative procedures and provide personnel it finds necessary to enforce this section and any ordinance enacted in accordance with this section. The ordinances may be enforced by appropriate fines and penalties, civil or criminal, or by court order at the suit of the county or the owner or owners of real estate directly affected by the ordinances.

Any civil fine or penalty provided by ordinance under this section may be imposed by the district court, or by the zoning agency after an opportunity for a hearing pursuant to chapter 91. The proceeding shall not be a prerequisite for any injunctive relief ordered by the circuit court.

Nothing in this section shall invalidate any zoning ordinance or regulation adopted by any county or other agency of government pursuant to the statutes in effect prior to July 1, 1957.

The powers granted herein shall be liberally construed in favor of the county exercising them, and in such a manner as to promote the orderly development of each county or city and county in accordance with a long-range, comprehensive general plan to ensure the greatest benefit for the State as a whole. This section shall not be construed to limit or repeal any powers of any county to achieve these ends through zoning and building regulations, except insofar as forest and water reserve zones are concerned and as provided in subsections (c) and (d).

Neither this section nor any ordinance enacted pursuant to this section shall prohibit the continued lawful use of any building or premises for any trade, industrial, residential, agricultural, or other purpose for which the building or premises is used at the time this section or the ordinance takes effect; provided that a zoning ordinance may provide for elimination of nonconforming uses as the uses are discontinued, or for the amortization or phasing out of nonconforming uses or signs over a reasonable period of time in commercial, industrial, resort, and apartment zoned areas only[-]; and provided further that a zoning ordinance may provide for the amortization or phasing out of nonconforming single-family transient vacation rental units or nonconforming single-family transient vacation units over a reasonable period of time in an area of any zoning classification. In no event shall such amortization or phasing out of nonconforming uses apply to any existing building or premises used for residential (single-family or duplex) or agricultural uses. Nothing in this section shall affect or impair the powers and duties of the director of transportation as set forth in chapter 262."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

Introduced by:

Report Title: County Zoning; Single-Family Transient Vacation Rentals

Description: Clarifies County zoning authority by distinguishing Single-Family residential use from Single-Family vacation rental use and allowing amortization by ordinance for Single-Family Transient Vacation Rentals over a reasonable period.

JUSTIFICATION SHEET

Title: A Bill For An Act Relating to Zoning

Purpose: This proposed Bill for an Act distinguishes Single-Family residential use from Single-Family vacation rental use, and allows amortization by Ordinance for Single-Family Transient Vacation Rentals over a reasonable period of time.

Means: Amends Section 46-4 of the Hawai'i Revised Statutes

Justification: This proposed Bill was introduced by several Legislators during the 2014 Hawai'i State Legislative Session, addressing the issue regarding Single-Family Transient Vacation Rentals and whether they should be treated as residential or resort units. It is evident that the vacation rental market has grown over the year and has significantly impacted many residential areas. The current statute allows certain vacation rental operations to circumvent many regulatory controls and claim their use is residential. To properly regulate and align non-conforming vacation rentals with other similar uses, this proposal distinguishes Single-Family residential use from Single-Family vacation rental use, and allows amortization by ordinance for Single-Family Transient Vacation Rentals over a reasonable period of time.

THIRTIETH LEGISLATURE, 2017
STATE OF HAWAII

__.B. NO.______

A BILL FOR AN ACT

RELATING TO TORT LIABILITY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAI'I:

SECTION 1. Act 170, Session Laws of Hawai'i 2002, as amended by section 4 of Act 152, Session Laws of Hawaii 2007, as amended by section 2 of Act 81, Session Laws of Hawai'i 2009, as amended by section 1 of Act 98, Session Laws of Hawai'i 2014, is amended by amending section 5 to read as follows:

"SECTION 5. This Act shall take effect upon its approval. [~~; provided that section 1 of this Act shall be repealed on June 30, 2017~~]~~.~~"

SECTION 2. Statutory material to be repealed is bracketed and stricken.

SECTION 3. This Act shall take effect upon its approval.

INTRODUCED

BY:___________________________________

__.B. NO. ______

__.B. NO.______

A BILL FOR AN ACT

RELATING TO UNADJUDICATED TRAFFIC FINES.

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

SECTION 1. Chapter 291C, Hawaiʻi Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

"**PART . TRANSMITTAL OF TRAFFIC FINES AND FORFEITURES TO COUNTIES**

§291C-A Definitions. As used in this part, unless the context clearly requires otherwise:

"Traffic infractions" means the same as defined under section 291D-2.

"Uncontested traffic infraction" means a traffic infraction for which the person noticed under section 291D-5 does not contest the infraction. A person "does not contest" an infraction if, in accordance with section 291D-6(b)(1), the person admits the commission of the infraction without requesting a hearing to explain mitigating circumstances and pays or remits bail forfeiture by mail, via the Internet, or by telephone within thirty days.

§291C-B Transmittal of fines and forfeitures from July 1, 2017. (a) Beginning July 1, 2017, the director of finance shall transmit to each county, not more than thirty days after the end of each fiscal quarter, all the fines and forfeitures collected for uncontested traffic infractions committed in that county that are in excess of amounts required by the State to pay the administrative costs of the traffic violations bureau. The fines and forfeitures shall be directed to the county in which the citations were issued. This section shall not apply to:

(1) Fines and forfeitures for violations that occur on state off-street parking facilities, parks, airports, and harbors that are subject to enforcement by the State; and

(2) Fines and forfeitures that are required by law to be paid into a special, revolving, or trust fund.

No county shall be entitled to any portion of the fines and forfeitures described in this subsection."

SECTION 2. Section 291C-171, Hawaiʻi Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) All fines and forfeitures collected upon conviction or upon the forfeiture of bail of any person charged with a violation of any section or provision of the state traffic laws and all assessments collected relating to the commission of traffic infractions shall be paid to the director of finance of the State. The judiciary shall identify those fines paid for uncontested traffic infractions as defined in section 291C-A. The disposition of fines and forfeitures paid to the director of finance shall be subject to sections 291C-B."

SECTION 3. In codifying the new sections added by section 1 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 2017.

INTRODUCED BY: ____________________

__.B. NO.______

A BILL FOR AN ACT

RELATING TO GOVERNMENT RECORDS.

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

SECTION 1. Section 92-2.5, Hawaii Revised Statutes, is amended to read as follows:

"**Permitted interactions of members.** (a) Two members of a board may discuss between themselves matters relating to official board business to enable them to perform their duties faithfully, as long as no commitment to vote is made or sought and the two members do not constitute a quorum of their board.

(b) Two or more members of a board, but less than the number of members [~~which~~] <u>that</u> would constitute a quorum for the board, may be assigned to:

(1) Investigate a matter relating to the official business of their board; provided that:

(A) The scope of the investigation and the scope of each member's authority are defined at a meeting of the board;

(B) All resulting findings and recommendations are presented to the board at a meeting of the board; and

(C) Deliberation and decisionmaking on the matter investigated, if any, occurs only at a duly noticed meeting of the board held subsequent to the meeting at which the findings and recommendations of the investigation were presented to the board; or

(2) Present, discuss, or negotiate any position [~~which~~] that the board has adopted at a meeting of the board; provided that the assignment is made and the scope of each member's authority is defined at a meeting of the board prior to the presentation, discussion, or negotiation.

(c) Discussions between two or more members of a board, but less than the number of members which would constitute a quorum for the board, concerning the selection of the board's officers may be conducted in private without limitation or subsequent reporting.

(d) Board members present at a meeting that must be canceled for lack of quorum or terminated pursuant to section 92-3.5(c) may nonetheless receive testimony and presentations on items on the agenda and question the testifiers or presenters; provided that:

(1) Deliberation or decisionmaking on any item, for which testimony or presentations are received, occurs only at a duly noticed meeting of the board held subsequent to the meeting at which the testimony and presentations were received;

(2) The members present shall create a record of the oral testimony or presentations in the same manner as would be required by section 92-9 for testimony or presentations heard during a meeting of the board; and

(3) Before its deliberation or decisionmaking at a subsequent meeting, the board shall:

(A) Provide copies of the testimony and presentations received at the canceled meeting to all members of the board; and

(B) Receive a report by the members who were present at the canceled or terminated meeting about the testimony and presentations received.

(e) Two or more members of a board, but less than the number of members [~~which~~] <u>that</u> would constitute a quorum for the board, may attend an informational meeting or presentation on matters relating to official board business, including a meeting of another entity, legislative hearing, convention, seminar, or community meeting; provided that the meeting or presentation is not specifically and exclusively organized for or directed toward members of the board. The board members in attendance may participate in discussions, including discussions among themselves; provided that the discussions occur during and as part of the informational meeting or presentation; and provided further that no commitment relating to a vote on the matter is made or sought.

At the next duly noticed meeting of the board, the board members shall report their attendance and the matters presented and discussed that related to official board business at the informational meeting or presentation.

(f) Discussions between the governor and one or more members of a board may be conducted in private without limitation or subsequent reporting; provided that the discussion does not relate to a matter over which a board is exercising its adjudicatory function.

(g) Discussions between two or more members of a board and the head of a department to which the board is administratively assigned may be conducted in private without limitation; provided that the discussion is limited to matters specified in section 26-35.

(h) A member of a board may provide, by memorandum or other means of transmittal, other members of the board any government record for which disclosure is required by section 92F-12; provided that:

(1) No commitment relating to a vote on the matter is made or sought by the board member in the means of transmittal; and

(2) No additional discussion other than a statement describing the government record and the issue related to the government record shall be included in the transmittal.

[~~(h)~~](i) Communications, interactions, discussions, investigations, and presentations described in this section are not meetings for purposes of this part."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

__.B. NO. _____

INTRODUCED BY:_______________________________

__.B. NO._____

A BILL FOR AN ACT

RELATING TO COLLECTIVE BARGAINING.

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

SECTION 1. The purpose of this Act is to allow a representative of each county council to be present as a non-voting participant in negotiations with bargaining units if the relevant county has employees in the particular bargaining unit.

County councils have the duty to appropriate funds for their counties. Councils' knowledge of bargaining unit negotiations and associated costs is essential to enable effective financial planning for the counties.

SECTION 2. Section 89-6, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) For the purpose of negotiating a collective bargaining agreement, the public employer of an appropriate bargaining unit shall mean the governor together with the following employers:

(1) For bargaining units (1), (2), (3), (4), (9), (10), (13), and (14), the governor shall have six votes and the mayors, the chief justice, and the Hawaii health systems corporation board shall each have one vote if

they have employees in the particular bargaining unit; and one representative from each county council shall be allowed to attend as a non-voting participant during negotiations if their county has employees in the particular bargaining unit;

(2) For bargaining units (11) and (12), the governor shall have [~~four votes~~]one vote and the mayors shall each have one vote; and one representative from each county council shall be allowed to attend as a non-voting participant during negotiations if their county has employees in the particular bargaining unit;

(3) For bargaining units (5) and (6), the governor shall have three votes, the board of education shall have two votes, and the superintendent of education shall have one vote; and

(4) For bargaining units (7) and (8), the governor shall have three votes, the board of regents of the University of Hawaii shall have two votes, and the president of the University of Hawaii shall have one vote.

(5) The mayor or the mayor's representative shall provide timely updates relating to bargaining unit

negotiations to the county councils in an executive meeting.

Any decision to be reached by the applicable employer group shall be on the basis of simple majority, except when a bargaining unit includes county employees from more than one county. In that case, the simple majority shall include at least one county."

SECTION 3. Statutory material to be deleted is bracketed and in strikethrough. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

INTRODUCED BY:______________________________