

STAND. COM. REP. NO.

461

Honolulu, Hawaii

FEB 23 2011

RE: S.B. No. 1356
S.D. 1

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

Sir:

Your Committee on Ways and Means, to which was referred S.B. No. 1356 entitled:

"A BILL FOR AN ACT RELATING TO TAXATION,"

begs leave to report as follows:

The purpose and intent of this measure is to increase fairness in tax administration by prohibiting the imposition of multiple penalties on certain tax underpayments.

Specifically, this measure prohibits the imposition of more than one penalty for tax violations attributable to more than one of the following: false and fraudulent tax statements, substantial understatement or misstatements of tax, and erroneous claims for tax refunds or credits.

Your Committee received testimony in support of this measure from Frederick D. Pablo, Interim Director, Department of Taxation; and Peter L. Fritz. Comments on the measure were received from the Tax Foundation of Hawaii.

Your Committee finds that Act 166, Session Laws of Hawaii 2009, established tax penalties similar to federal penalties for tax underpayments. However, unlike the federal law, Act 166 did not prohibit the stacking of tax underpayment penalties. This means that Hawaii taxpayers may be subject to penalties imposed under multiple tax underpayment violations for a single act. Your Committee finds that this measure promotes the fair application of



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these penalties by prohibiting the imposition of multiple penalties for one applicable violation.

Your Committee has amended this measure by:

- (1) Adding wilful failure to collect and pay over tax (section 231-36.4, Hawaii Revised Statutes) to the violations under this measure for which penalties cannot be stacked; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1356, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1356, S.D. 1, and be placed on the calendar for Third Reading.

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

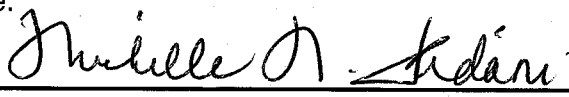


DAVID Y. IGE, Chair



The Senate
 Twenty-Sixth Legislature
 State of Hawai'i

Record of Votes
Committee on Ways and Means
WAM

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 1356	WAM	2-22-11		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
IGE, David Y. (C)	/			
KIDANI, Michelle N. (VC)	/			
CHUN OAKLAND, Suzanne	/			
DELA CRUZ, Donovan M.	/			
ENGLISH, J. Kalani				/
ESPERO, Will				/
FUKUNAGA, Carol	/			
KIM, Donna Mercado	/			
KAHELE, Gilbert	/			
KOUCHI, Ronald D.				/
RYAN, Pohai	/			
TOKUDA, Jill N.	/			
WAKAI, Glenn	/			
SLOM, Sam	/			
TOTAL	11	0	0	3
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
Distribution:				
Original	Yellow	Pink	Goldenrod	
File with Committee Report	Clerk's Office	Drafting Agency	Committee File Copy	

*Only one measure per Record of Votes