
A BILL FOR AN ACT

RELATING TO EDUCATION.

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

1 SECTION 1. The Hawaii public education system is at a
2 critical juncture. With a mandate to educate all students in
3 the State, regardless of ability, and consistently limited
4 financial resources with which to fulfill this mandate,
5 educational workers at all levels have been forced to sacrifice
6 to ensure that the children of Hawaii continue to receive an
7 education that will prepare them to meet the challenges they
8 will face upon entering adulthood.

9 Hawaii's public schools are housed in aging facilities,
10 with over half of all public schools fifty years old or older.
11 The danger such aging infrastructure poses to students and
12 personnel is evident in the recent collapse of a large portion
13 of Farrington high school's auditorium roof. Too, many schools
14 lack air conditioning, leaving students and teachers struggling
15 to concentrate in classrooms with temperatures that can exceed
16 eighty-eight degrees fahrenheit.

17 In addition, the strain on Hawaii's teachers has increased
18 as financial resources allocated to education have decreased.



1 Many teachers work for annual salaries that, for a family of
2 three, qualify them for public nutrition assistance and yet they
3 continue to supply their classrooms using their own money. The
4 result has been a flight of highly educated and well-qualified
5 teachers from the profession—one of the highest rates in the
6 country.

7 The legislature finds that the State cannot afford to allow
8 such conditions to endure. Hawaii's students deserve to learn
9 in functioning buildings at comfortable temperatures. They
10 deserve to learn from qualified, dedicated instructors who are
11 able to focus their energy on the task of teaching, not on their
12 families' budget. The legislature further finds that it is
13 imperative that the State commit to public K-12 education as a
14 priority.

15 Therefore, the purpose of this Act is to increase the
16 general excise tax by one per cent, with revenue generated from
17 the increase exclusively dedicated to fund public education in
18 the State.

19 SECTION 2. Section 237-13, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "**§237-13 Imposition of tax.** There is hereby levied and
22 shall be assessed and collected annually privilege taxes against



1 persons on account of their business and other activities in the
2 State measured by the application of rates against values of
3 products, gross proceeds of sales, or gross income, whichever is
4 specified, as follows:

5 (1) Tax on manufacturers.

6 (A) Upon every person engaging or continuing within
7 the State in the business of manufacturing,
8 including compounding, canning, preserving,
9 packing, printing, publishing, milling,
10 processing, refining, or preparing for sale,
11 profit, or commercial use, either directly or
12 through the activity of others, in whole or in
13 part, any article or articles, substance or
14 substances, commodity or commodities, the amount
15 of the tax to be equal to the value of the
16 articles, substances, or commodities,
17 manufactured, compounded, canned, preserved,
18 packed, printed, milled, processed, refined, or
19 prepared for sale, as shown by the gross proceeds
20 derived from the sale thereof by the manufacturer
21 or person compounding, preparing, or printing
22 them, multiplied by one-half of one per cent.



1 (B) The measure of the tax on manufacturers is the
2 value of the entire product for sale, regardless
3 of the place of sale or the fact that deliveries
4 may be made to points outside the State.

5 (C) If any person liable for the tax on manufacturers
6 ships or transports the person's product, or any
7 part thereof, out of the State, whether in a
8 finished or unfinished condition, or sells the
9 same for delivery to points outside the State
10 (for example, consigned to a mainland purchaser
11 via common carrier f.o.b. Honolulu), the value of
12 the products in the condition or form in which
13 they exist immediately before entering interstate
14 or foreign commerce, determined as hereinafter
15 provided, shall be the basis for the assessment
16 of the tax imposed by this paragraph. This tax
17 shall be due and payable as of the date of entry
18 of the products into interstate or foreign
19 commerce, whether the products are then sold or
20 not. The department shall determine the basis
21 for assessment, as provided by this paragraph, as
22 follows:



1 (i) If the products at the time of their entry
2 into interstate or foreign commerce already
3 have been sold, the gross proceeds of sale,
4 less the transportation expenses, if any,
5 incurred in realizing the gross proceeds for
6 transportation from the time of entry of the
7 products into interstate or foreign
8 commerce, including insurance and storage in
9 transit, shall be the measure of the value
10 of the products;

11 (ii) If the products have not been sold at the
12 time of their entry into interstate or
13 foreign commerce, and in cases governed by
14 clause (i) in which the products are sold
15 under circumstances such that the gross
16 proceeds of sale are not indicative of the
17 true value of the products, the value of the
18 products constituting the basis for
19 assessment shall correspond as nearly as
20 possible to the gross proceeds of sales for
21 delivery outside the State, adjusted as
22 provided in clause (i), or if sufficient



1 data are not available, sales in the State,
2 of similar products of like quality and
3 character and in similar quantities, made by
4 the taxpayer (unless not indicative of the
5 true value) or by others. Sales outside the
6 State, adjusted as provided in clause (i),
7 may be considered when they constitute the
8 best available data. The department shall
9 prescribe uniform and equitable rules for
10 ascertaining the values;

11 (iii) At the election of the taxpayer and with the
12 approval of the department, the taxpayer may
13 make the taxpayer's returns under clause (i)
14 even though the products have not been sold
15 at the time of their entry into interstate
16 or foreign commerce; and

17 (iv) In all cases in which products leave the
18 State in an unfinished condition, the basis
19 for assessment shall be adjusted so as to
20 deduct the portion of the value as is
21 attributable to the finishing of the goods
22 outside the State.



1 (2) Tax on business of selling tangible personal property;
2 producing.
3 (A) Upon every person engaging or continuing in the
4 business of selling any tangible personal
5 property whatsoever (not including, however,
6 bonds or other evidence of indebtedness, or
7 stocks), there is likewise hereby levied, and
8 shall be assessed and collected, a tax equivalent
9 to [~~four~~] five per cent of the gross proceeds of
10 sales of the business; provided that insofar as
11 the sale of tangible personal property is a
12 wholesale sale under section [+]237-4(a)(8)[+],
13 the sale shall be subject to section 237-13.3.
14 Upon every person engaging or continuing within
15 this State in the business of a producer, the tax
16 shall be equal to one-half of one per cent of the
17 gross proceeds of sales of the business, or the
18 value of the products, for sale, if sold for
19 delivery outside the State or shipped or
20 transported out of the State, and the value of
21 the products shall be determined in the same



1 manner as the value of manufactured products
2 covered in the cases under paragraph (1)(C).

3 (B) Gross proceeds of sales of tangible property in
4 interstate and foreign commerce shall constitute
5 a part of the measure of the tax imposed on
6 persons in the business of selling tangible
7 personal property, to the extent, under the
8 conditions, and in accordance with the provisions
9 of the Constitution of the United States and the
10 Acts of the Congress of the United States which
11 may be now in force or may be hereafter adopted,
12 and whenever there occurs in the State an
13 activity to which, under the Constitution and
14 Acts of Congress, there may be attributed gross
15 proceeds of sales, the gross proceeds shall be so
16 attributed.

17 (C) No manufacturer or producer, engaged in such
18 business in the State and selling the
19 manufacturer's or producer's products for
20 delivery outside of the State (for example,
21 consigned to a mainland purchaser via common
22 carrier f.o.b. Honolulu), shall be required to



1 pay the tax imposed in this chapter for the
2 privilege of so selling the products, and the
3 value or gross proceeds of sales of the products
4 shall be included only in determining the measure
5 of the tax imposed upon the manufacturer or
6 producer.

7 (D) When a manufacturer or producer, engaged in such
8 business in the State, also is engaged in selling
9 the manufacturer's or producer's products in the
10 State at wholesale, retail, or in any other
11 manner, the tax for the privilege of engaging in
12 the business of selling the products in the State
13 shall apply to the manufacturer or producer as
14 well as the tax for the privilege of
15 manufacturing or producing in the State, and the
16 manufacturer or producer shall make the returns
17 of the gross proceeds of the wholesale, retail,
18 or other sales required for the privilege of
19 selling in the State, as well as making the
20 returns of the value or gross proceeds of sales
21 of the products required for the privilege of
22 manufacturing or producing in the State. The



1 manufacturer or producer shall pay the tax
2 imposed in this chapter for the privilege of
3 selling its products in the State, and the value
4 or gross proceeds of sales of the products, thus
5 subjected to tax, may be deducted insofar as
6 duplicated as to the same products by the measure
7 of the tax upon the manufacturer or producer for
8 the privilege of manufacturing or producing in
9 the State; provided that no producer of
10 agricultural products who sells the products to a
11 purchaser who will process the products outside
12 the State shall be required to pay the tax
13 imposed in this chapter for the privilege of
14 producing or selling those products.

15 (E) A taxpayer selling to a federal cost-plus
16 contractor may make the election provided for by
17 paragraph (3)(C), and in that case the tax shall
18 be computed pursuant to the election,
19 notwithstanding this paragraph or paragraph (1)
20 to the contrary.

21 (F) The department, by rule, may require that a
22 seller take from the purchaser of tangible



1 personal property a certificate, in a form
2 prescribed by the department, certifying that the
3 sale is a sale at wholesale; provided that:

4 (i) Any purchaser who furnishes a certificate
5 shall be obligated to pay to the seller,
6 upon demand, the amount of the additional
7 tax that is imposed upon the seller whenever
8 the sale in fact is not at wholesale; and

9 (ii) The absence of a certificate in itself shall
10 give rise to the presumption that the sale
11 is not at wholesale unless the sales of the
12 business are exclusively at wholesale.

13 (3) Tax upon contractors.

14 (A) Upon every person engaging or continuing within
15 the State in the business of contracting, the tax
16 shall be equal to [~~four~~] five per cent of the
17 gross income of the business.

18 (B) In computing the tax levied under this paragraph,
19 there shall be deducted from the gross income of
20 the taxpayer so much thereof as has been included
21 in the measure of the tax levied under
22 subparagraph (A), on:



- 1 (i) Another taxpayer who is a contractor, as
- 2 defined in section 237-6;
- 3 (ii) A specialty contractor, duly licensed by the
- 4 department of commerce and consumer affairs
- 5 pursuant to section 444-9, in respect of the
- 6 specialty contractor's business; or
- 7 (iii) A specialty contractor who is not licensed
- 8 by the department of commerce and consumer
- 9 affairs pursuant to section 444-9, but who
- 10 performs contracting activities on federal
- 11 military installations and nowhere else in
- 12 this State;

13 provided that any person claiming a deduction
14 under this paragraph shall be required to show in
15 the person's return the name and general excise
16 number of the person paying the tax on the amount
17 deducted by the person.

18 (C) In computing the tax levied under this paragraph
19 against any federal cost-plus contractor, there
20 shall be excluded from the gross income of the
21 contractor so much thereof as fulfills the
22 following requirements:

1 (i) The gross income exempted shall constitute
2 reimbursement of costs incurred for
3 materials, plant, or equipment purchased
4 from a taxpayer licensed under this chapter,
5 not exceeding the gross proceeds of sale of
6 the taxpayer on account of the transaction;
7 and

8 (ii) The taxpayer making the sale shall have
9 certified to the department that the
10 taxpayer is taxable with respect to the
11 gross proceeds of the sale, and that the
12 taxpayer elects to have the tax on gross
13 income computed the same as upon a sale to
14 the state government.

15 (D) A person who, as a business or as a part of a
16 business in which the person is engaged, erects,
17 constructs, or improves any building or
18 structure, of any kind or description, or makes,
19 constructs, or improves any road, street,
20 sidewalk, sewer, or water system, or other
21 improvements on land held by the person (whether
22 held as a leasehold, fee simple, or otherwise),



1 upon the sale or other disposition of the land or
2 improvements, even if the work was not done
3 pursuant to a contract, shall be liable to the
4 same tax as if engaged in the business of
5 contracting, unless the person shows that at the
6 time the person was engaged in making the
7 improvements the person intended, and for the
8 period of at least one year after completion of
9 the building, structure, or other improvements
10 the person continued to intend to hold and not
11 sell or otherwise dispose of the land or
12 improvements. The tax in respect of the
13 improvements shall be measured by the amount of
14 the proceeds of the sale or other disposition
15 that is attributable to the erection,
16 construction, or improvement of such building or
17 structure, or the making, constructing, or
18 improving of the road, street, sidewalk, sewer,
19 or water system, or other improvements. The
20 measure of tax in respect of the improvements
21 shall not exceed the amount which would have been
22 taxable had the work been performed by another,



1 subject as in other cases to the deductions
2 allowed by subparagraph (B). Upon the election
3 of the taxpayer, this paragraph may be applied
4 notwithstanding that the improvements were not
5 made by the taxpayer, or were not made as a
6 business or as a part of a business, or were made
7 with the intention of holding the same. However,
8 this paragraph shall not apply in respect of any
9 proceeds that constitute or are in the nature of
10 rent; all such gross income shall be taxable
11 under paragraph (9); provided that insofar as the
12 business of renting or leasing real property
13 under a lease is taxed under section 237-16.5,
14 the tax shall be levied by section 237-16.5.

15 (4) Tax upon theaters, amusements, radio broadcasting
16 stations, etc.

17 (A) Upon every person engaging or continuing within
18 the State in the business of operating a theater,
19 opera house, moving picture show, vaudeville,
20 amusement park, dance hall, skating rink, radio
21 broadcasting station, or any other place at which
22 amusements are offered to the public, the tax



1 shall be equal to [~~four~~] five per cent of the
2 gross income of the business, and in the case of
3 a sale of an amusement at wholesale under section
4 237-4(a)(13), the tax shall be subject to section
5 237-13.3.

6 (B) The department may require that the person
7 rendering an amusement at wholesale take from the
8 licensed seller a certificate, in a form
9 prescribed by the department, certifying that the
10 sale is a sale at wholesale; provided that:

11 (i) Any licensed seller who furnishes a
12 certificate shall be obligated to pay to the
13 person rendering the amusement, upon demand,
14 the amount of additional tax that is imposed
15 upon the seller whenever the sale is not at
16 wholesale; and

17 (ii) The absence of a certificate in itself shall
18 give rise to the presumption that the sale
19 is not at wholesale unless the person
20 rendering the sale is exclusively rendering
21 the amusement at wholesale.



1 (5) Tax upon sales representatives, etc. Upon every
2 person classified as a representative or purchasing
3 agent under section 237-1, engaging or continuing
4 within the State in the business of performing
5 services for another, other than as an employee, there
6 is likewise hereby levied and shall be assessed and
7 collected a tax equal to [~~four~~] five per cent of the
8 commissions and other compensation attributable to the
9 services so rendered by the person.

10 (6) Tax on service business.

11 (A) Upon every person engaging or continuing within
12 the State in any service business or calling
13 including professional services not otherwise
14 specifically taxed under this chapter, there is
15 likewise hereby levied and shall be assessed and
16 collected a tax equal to [~~four~~] five per cent of
17 the gross income of the business, and in the case
18 of a wholesaler under section 237-4(a)(10), the
19 tax shall be equal to one-half of one per cent of
20 the gross income of the business.

21 Notwithstanding the foregoing, a wholesaler under



1 section 237-4(a)(10) shall be subject to section
2 237-13.3.

3 (B) The department may require that the person
4 rendering a service at wholesale take from the
5 licensed seller a certificate, in a form
6 prescribed by the department, certifying that the
7 sale is a sale at wholesale; provided that:

8 (i) Any licensed seller who furnishes a
9 certificate shall be obligated to pay to the
10 person rendering the service, upon demand,
11 the amount of additional tax that is imposed
12 upon the seller whenever the sale is not at
13 wholesale; and

14 (ii) The absence of a certificate in itself shall
15 give rise to the presumption that the sale
16 is not at wholesale unless the person
17 rendering the sale is exclusively rendering
18 services at wholesale.

19 (C) Where any person is engaged in the business of
20 selling interstate or foreign common carrier
21 telecommunication services within and without the
22 State, other than as a home service provider, the



1 tax shall be imposed on that portion of gross
2 income received by a person from service which is
3 originated or terminated in this State and is
4 charged to a telephone number, customer, or
5 account in this State notwithstanding any other
6 state law (except for the exemption under section
7 237-23(a)(1)) to the contrary. If, under the
8 Constitution and laws of the United States, the
9 entire gross income as determined under this
10 paragraph of a business selling interstate or
11 foreign common carrier telecommunication services
12 cannot be included in the measure of the tax, the
13 gross income shall be apportioned as provided in
14 section 237-21; provided that the apportionment
15 factor and formula shall be the same for all
16 persons providing those services in the State.

17 (D) Where any person is engaged in the business of a
18 home service provider, the tax shall be imposed
19 on the gross income received or derived from
20 providing interstate or foreign mobile
21 telecommunications services to a customer with a
22 place of primary use in this State when such



1 services originate in one state and terminate in
2 another state, territory, or foreign country;
3 provided that all charges for mobile
4 telecommunications services which are billed by
5 or for the home service provider are deemed to be
6 provided by the home service provider at the
7 customer's place of primary use, regardless of
8 where the mobile telecommunications originate,
9 terminate, or pass through; provided further that
10 the income from charges specifically derived from
11 interstate or foreign mobile telecommunications
12 services, as determined by books and records that
13 are kept in the regular course of business by the
14 home service provider in accordance with section
15 239-24, shall be apportioned under any
16 apportionment factor or formula adopted under
17 subparagraph (C). Gross income shall not
18 include:

- 19 (i) Gross receipts from mobile
20 telecommunications services provided to a
21 customer with a place of primary use outside
22 this State;



- 1 (ii) Gross receipts from mobile
- 2 telecommunications services that are subject
- 3 to the tax imposed by chapter 239;
- 4 (iii) Gross receipts from mobile
- 5 telecommunications services taxed under
- 6 section 237-13.8; and
- 7 (iv) Gross receipts of a home service provider
- 8 acting as a serving carrier providing mobile
- 9 telecommunications services to another home
- 10 service provider's customer.

11 For the purposes of this paragraph, "charges for

12 mobile telecommunications services", "customer",

13 "home service provider", "mobile

14 telecommunications services", "place of primary

15 use", and "serving carrier" have the same meaning

16 as in section 239-22.

17 (7) Tax on insurance producers. Upon every person engaged

18 as a licensed producer pursuant to chapter 431, there

19 is hereby levied and shall be assessed and collected a

20 tax equal to 0.15 per cent of the commissions due to

21 that activity.



1 (8) Tax on receipts of sugar benefit payments. Upon the
2 amounts received from the United States government by
3 any producer of sugar (or the producer's legal
4 representative or heirs), as defined under and by
5 virtue of the Sugar Act of 1948, as amended, or other
6 Acts of the Congress of the United States relating
7 thereto, there is hereby levied a tax of one-half of
8 one per cent of the gross amount received; provided
9 that the tax levied hereunder on any amount so
10 received and actually disbursed to another by a
11 producer in the form of a benefit payment shall be
12 paid by the person or persons to whom the amount is
13 actually disbursed, and the producer actually making a
14 benefit payment to another shall be entitled to claim
15 on the producer's return a deduction from the gross
16 amount taxable hereunder in the sum of the amount so
17 disbursed. The amounts taxed under this paragraph
18 shall not be taxable under any other paragraph,
19 subsection, or section of this chapter.

20 (9) Tax on other business. Upon every person engaging or
21 continuing within the State in any business, trade,
22 activity, occupation, or calling not included in the



1 preceding paragraphs or any other provisions of this
2 chapter, there is likewise hereby levied and shall be
3 assessed and collected, a tax equal to [~~four~~] five per
4 cent of the gross income thereof. In addition, the
5 rate prescribed by this paragraph shall apply to a
6 business taxable under one or more of the preceding
7 paragraphs or other provisions of this chapter, as to
8 any gross income thereof not taxed thereunder as gross
9 income or gross proceeds of sales or by taxing an
10 equivalent value of products, unless specifically
11 exempted."

12 SECTION 3. Section 237-15, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§237-15 Technicians.** When technicians supply dentists or
15 physicians with dentures, orthodontic devices, braces, and
16 similar items which have been prepared by the technician in
17 accordance with specifications furnished by the dentist or
18 physician, and such items are to be used by the dentist or
19 physician in the dentist's or physician's professional practice
20 for a particular patient who is to pay the dentist or physician
21 for the same as a part of the dentist's or physician's
22 professional services, the technician shall be taxed as though



1 the technician were a manufacturer selling a product to a
2 licensed retailer, rather than at the rate of [~~four~~] five per
3 cent which is generally applied to professions and services."

4 SECTION 4. Section 237-16.5, Hawaii Revised Statutes, is
5 amended as follows:

6 1. By amending subsection (a) to read:

7 "(a) This section relates to the leasing of real property
8 by a lessor to a lessee. There is hereby levied, and shall be
9 assessed and collected annually, a privilege tax against persons
10 engaging or continuing within the State in the business of
11 leasing real property to another, equal to [~~four~~] five per cent
12 of the gross proceeds or gross income received or derived from
13 the leasing; provided that where real property is subleased by a
14 lessee to a sublessee, the lessee, as provided in this section,
15 shall be allowed a deduction from the amount of gross proceeds
16 or gross income received from its sublease of the real property.
17 The deduction shall be in the amount allowed under this section.

18 All deductions under this section and the name and general
19 excise tax number of the lessee's lessor shall be reported on
20 the general excise tax return. Any deduction allowed under this
21 section shall only be allowed with respect to leases and
22 subleases in writing and relating to the same real property."



1 2. By amending subsection (f) to read:

2 " (f) This section shall not cause the tax upon a lessor,
3 with respect to any item of the lessor's gross proceeds or gross
4 income, to exceed [~~four~~] five per cent."

5 SECTION 5. Section 237-18, Hawaii Revised Statutes, is
6 amended by amending subsection (f) to read as follows:

7 " (f) Where tourism related services are furnished through
8 arrangements made by a travel agency or tour packager and the
9 gross income is divided between the provider of the services and
10 the travel agency or tour packager, the tax imposed by this
11 chapter shall apply to each such person with respect to such
12 person's respective portion of the proceeds, and no more.

13 As used in this subsection "tourism related services" means
14 catamaran cruises, canoe rides, dinner cruises, lei greetings,
15 transportation included in a tour package, sightseeing tours not
16 subject to chapter 239, admissions to luaus, dinner shows,
17 extravaganzas, cultural and educational facilities, and other
18 services rendered directly to the customer or tourist, but only
19 if the providers of the services other than air transportation
20 are subject to a [~~four~~] five per cent tax under this chapter or
21 chapter 239."



1 SECTION 6. Section 237-31, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§237-31 **Remittances.** All remittances of taxes imposed by
4 this chapter shall be made by money, bank draft, check,
5 cashier's check, money order, or certificate of deposit to the
6 office of the department of taxation to which the return was
7 transmitted. The department shall issue its receipts therefor
8 to the taxpayer and shall pay the moneys into the state treasury
9 as a state realization, to be kept and accounted for as provided
10 by law; provided that:

11 (1) The sum from all general excise tax revenues realized
12 by the State that represents the difference between
13 \$45,000,000 and the proceeds from the sale of any
14 general obligation bonds authorized for that fiscal
15 year for the purposes of the state educational
16 facilities improvement special fund shall be deposited
17 in the state treasury in each fiscal year to the
18 credit of the state educational facilities improvement
19 special fund;

20 (2) A sum, not to exceed \$5,000,000, from all general
21 excise tax revenues realized by the State shall be
22 deposited in the state treasury in each fiscal year to



1 the credit of the compound interest bond reserve fund;
 2 [~~and~~]
 3 (3) A sum from all general excise tax revenues realized by
 4 the State that is equal to twenty per cent shall be
 5 deposited into a special account in the general fund
 6 for appropriation to and expenditure for operations of
 7 the department of education under chapter 302A, which
 8 amount shall be in addition to and not substituted for
 9 moneys otherwise appropriated to the department of
 10 education; and

11 [~~3~~] (4) A sum from all general excise tax revenues
 12 realized by the State that is equal to one-half of the
 13 total amount of funds appropriated or transferred out
 14 of the hurricane reserve trust fund under sections 4
 15 and 5 of Act 62, Session Laws of Hawaii 2011, shall be
 16 deposited into the hurricane reserve trust fund in
 17 fiscal year 2013-2014 and in fiscal year 2014-2015;
 18 provided that the deposit required in each fiscal year
 19 shall be made by October 1 of that fiscal year."

20 SECTION 7. Section 238-2, Hawaii Revised Statutes, is
 21 amended to read as follows:



1 "§238-2 **Imposition of tax on tangible personal property;**
2 **exemptions.** There is hereby levied an excise tax on the use in
3 this State of tangible personal property which is imported by a
4 taxpayer in this State whether owned, purchased from an
5 unlicensed seller, or however acquired for use in this State.
6 The tax imposed by this chapter shall accrue when the property
7 is acquired by the importer or purchaser and becomes subject to
8 the taxing jurisdiction of the State. The rates of the tax
9 hereby imposed and the exemptions thereof are as follows:

10 (1) If the importer or purchaser is licensed under chapter
11 237 and is:

12 (A) A wholesaler or jobber importing or purchasing
13 for purposes of sale or resale; or

14 (B) A manufacturer importing or purchasing material
15 or commodities which are to be incorporated by
16 the manufacturer into a finished or saleable
17 product (including the container or package in
18 which the product is contained) wherein it will
19 remain in such form as to be perceptible to the
20 senses, and which finished or saleable product is
21 to be sold in such manner as to result in a
22 further tax on the activity of the manufacturer



1 as the manufacturer or as a wholesaler, and not
2 as a retailer,
3 there shall be no tax; provided that if the
4 wholesaler, jobber, or manufacturer is also engaged in
5 business as a retailer (so classed under chapter 237),
6 paragraph (2) shall apply to the wholesaler, jobber,
7 or manufacturer, but the director of taxation shall
8 refund to the wholesaler, jobber, or manufacturer, in
9 the manner provided under section 231-23(c) such
10 amount of tax as the wholesaler, jobber, or
11 manufacturer shall, to the satisfaction of the
12 director, establish to have been paid by the
13 wholesaler, jobber, or manufacturer to the director
14 with respect to property which has been used by the
15 wholesaler, jobber, or manufacturer for the purposes
16 stated in this paragraph;

17 (2) If the importer or purchaser is licensed under chapter
18 237 and is:

19 (A) A retailer or other person importing or
20 purchasing for purposes of sale or resale, not
21 exempted by paragraph (1);



1 (B) A manufacturer importing or purchasing material
2 or commodities which are to be incorporated by
3 the manufacturer into a finished or saleable
4 product (including the container or package in
5 which the product is contained) wherein it will
6 remain in such form as to be perceptible to the
7 senses, and which finished or saleable product is
8 to be sold at retail in this State, in such
9 manner as to result in a further tax on the
10 activity of the manufacturer in selling such
11 products at retail;

12 (C) A contractor importing or purchasing material or
13 commodities which are to be incorporated by the
14 contractor into the finished work or project
15 required by the contract and which will remain in
16 such finished work or project in such form as to
17 be perceptible to the senses;

18 (D) A person engaged in a service business or calling
19 as defined in section 237-7, or a person
20 furnishing transient accommodations subject to
21 the tax imposed by section 237D-2, in which the
22 import or purchase of tangible personal property



1 would have qualified as a sale at wholesale as
2 defined in section 237-4(a)(8) had the seller of
3 the property been subject to the tax in chapter
4 237; or

5 (E) A publisher of magazines or similar printed
6 materials containing advertisements, when the
7 publisher is under contract with the advertisers
8 to distribute a minimum number of magazines or
9 similar printed materials to the public or
10 defined segment of the public, whether or not
11 there is a charge to the persons who actually
12 receive the magazines or similar printed
13 materials,

14 the tax shall be one-half of one per cent of the
15 purchase price of the property, if the purchase and
16 sale are consummated in Hawaii; or, if there is no
17 purchase price applicable thereto, or if the purchase
18 or sale is consummated outside of Hawaii, then one-
19 half of one per cent of the value of such property;
20 and

21 (3) In all other cases, [~~four~~] five per cent of the value
22 of the property.



1 For purposes of this section, tangible personal property is
2 property that is imported by the taxpayer for use in this State,
3 notwithstanding the fact that title to the property, or the risk
4 of loss to the property, passes to the purchaser of the property
5 at a location outside this State."

6 SECTION 8. Section 238-2.3, Hawaii Revised Statutes, is
7 amended to read as follows:

8 **"§238-2.3 Imposition of tax on imported services or**
9 **contracting; exemptions.** There is hereby levied an excise tax
10 on the value of services or contracting as defined in section
11 237-6 that are performed by an unlicensed seller at a point
12 outside the State and imported or purchased for use in this
13 State. The tax imposed by this chapter shall accrue when the
14 service or contracting as defined in section 237-6 is received
15 by the importer or purchaser and becomes subject to the taxing
16 jurisdiction of the State. The rates of the tax hereby imposed
17 and the exemptions from the tax are as follows:

18 (1) If the importer or purchaser is licensed under chapter
19 237 and is:

20 (A) Engaged in a service business or calling in which
21 the imported or purchased services or contracting
22 become identifiable elements, excluding overhead,



1 of the services rendered by the importer or
2 purchaser, and the gross income of the importer
3 or purchaser is subject to the tax imposed under
4 chapter 237 on services at the rate of one-half
5 of one per cent or the rate of tax imposed under
6 section 237-13.3; or

7 (B) A manufacturer importing or purchasing services
8 or contracting that become identifiable elements,
9 excluding overhead, of a finished or saleable
10 product (including the container or package in
11 which the product is contained) and the finished
12 or saleable product is to be sold in a manner
13 that results in a further tax on the manufacturer
14 as a wholesaler, and not a retailer;

15 there shall be no tax imposed on the value of the
16 imported or purchased services or contracting;
17 provided that if the manufacturer is also engaged in
18 business as a retailer as classified under chapter
19 237, paragraph (2) shall apply to the manufacturer,
20 but the director of taxation shall refund to the
21 manufacturer, in the manner provided under section
22 231-23(c), that amount of tax that the manufacturer,



1 to the satisfaction of the director, shall establish
2 to have been paid by the manufacturer to the director
3 with respect to services that have been used by the
4 manufacturer for the purposes stated in this
5 paragraph.

6 (2) If the importer or purchaser is a person licensed
7 under chapter 237 and is:

8 (A) Engaged in a service business or calling in which
9 the imported or purchased services or contracting
10 become identifiable elements, excluding overhead,
11 of the services rendered by the importer or
12 purchaser, and the gross income from those
13 services when sold by the importer or purchaser
14 is subject to the tax imposed under chapter 237
15 at the highest rate;

16 (B) A manufacturer importing or purchasing services
17 or contracting that become identifiable elements,
18 excluding overhead, of the finished or saleable
19 manufactured product (including the container or
20 package in which the product is contained) and
21 the finished or saleable product is to be sold in
22 a manner that results in a further tax under



1 chapter 237 on the activity of the manufacturer
2 as a retailer; or

3 (C) A contractor importing or purchasing services or
4 contracting that become identifiable elements,
5 excluding overhead, of the finished work or
6 project required, under the contract, and where
7 the gross proceeds derived by the contractor are
8 subject to the tax under section 237-13(3) as a
9 contractor,

10 the tax shall be one-half of one per cent of the value
11 of the imported or purchased services or contracting;
12 and

13 (3) In all other cases, the importer or purchaser is
14 subject to the tax at the rate of [~~four~~] five per cent
15 on the value of the imported or purchased services or
16 contracting."

17 SECTION 9. Section 238-14, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§238-14 Taxes state realizations.** All taxes collected
20 under this chapter shall be state realizations[-]; provided that
21 a sum from use tax revenues imposed under this chapter realized
22 by the State that is equal to twenty per cent shall be deposited



1 in the special account in the general fund for appropriation to
 2 and expenditure for operation of the department of education
 3 pursuant to section 237-31."

4 SECTION 10. Statutory material to be repealed is bracketed
 5 and stricken. New statutory material is underscored.

6 SECTION 11. This Act shall take effect upon its approval
 7 and shall apply to gross income or gross proceeds received and
 8 gross value or taxes accruing after December 31, 2013.

9

INTRODUCED BY: *Stah* *B/R*

JAN 24 2013



H.B. NO. 1368

Report Title:

General Excise Tax; Use Tax; Education

Description:

Increases the General Excise Tax and Use Tax for certain, specified services and commodities by one percent. Directs the realizations of twenty percent of such taxes to the Department of Education for the operations of the Department under state law.

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

