
SENATE CONCURRENT RESOLUTION

REQUESTING THE TAX REVIEW COMMISSION TO EVALUATE THE IMPACTS OF
GENERAL EXCISE AND USE TAX INCREASES PROPOSED DURING THE
REGULAR SESSION OF 2016 AND GENERAL EXCISE TAX PYRAMIDING
AS APPLIED TO TRANSIENT ACCOMMODATIONS.

1 WHEREAS, it is anticipated that a Tax Review Commission
2 will be convened, pursuant to article VII, section 3, of the
3 state constitution; and
4

5 WHEREAS, the basic duties of the Tax Review Commission are
6 to evaluate the State's tax structure and recommend revenue and
7 tax policy; and
8

9 WHEREAS, during the Regular Session of 2016, the
10 Legislature considered two proposals to increase the general
11 excise tax and use tax, one to finance long-term care benefits
12 and the other to fund education programs; and
13

14 WHEREAS, reliable estimates of the general fund revenue
15 impacts of the proposed general excise and use tax increases
16 were relatively easy to obtain from the Department of Taxation;
17 and
18

19 WHEREAS, other impacts, however, were not understood or
20 fully discussed because of the lack of sufficient objective
21 information; and
22

23 WHEREAS, the impacts that should be better understood
24 include the following:
25

- 26 (1) The persons or businesses that will actually bear the
27 cost of the tax increases;
28
29 (2) The extent of any regressivity that is likely to be
30 caused by the tax increases;



- 1
- 2 (3) The compatibility of the tax increases with the
- 3 public's general preference for a progressive tax
- 4 structure;
- 5
- 6 (4) The necessity for income tax credits to relieve the
- 7 burden on low-income residents;
- 8
- 9 (5) The proportion of the tax increases that will be
- 10 exported;
- 11
- 12 (6) The assurance that revenues from the tax increases
- 13 would be dedicated to and expended exclusively for
- 14 their intended purpose;
- 15
- 16 (7) The fairness of imposing such a broad and substantial
- 17 tax increase on all taxpayers, including many who
- 18 would not benefit from the programs that the tax
- 19 increases are intended to fund; and
- 20
- 21 (8) The capability of the Department of Taxation to
- 22 implement the tax increases; and
- 23

24 WHEREAS, the Tax Review Commissions of 1989 and 1995, after
 25 extensively studying the Hawaii general excise tax, both
 26 recommended structural changes to the general excise tax because
 27 of excessive pyramiding, which occurs when the tax is applied
 28 multiple times to the same product, service, or other economic
 29 activity before it reaches the ultimate consumer; and
 30

31 WHEREAS, the sublease deduction enacted by Act 353, Session
 32 Laws of Hawaii 1997, and codified in section 237-16.5, Hawaii
 33 Revised Statutes, represented the first steps in mitigating the
 34 impacts of pyramiding, and was followed by Act 70, Session Laws
 35 of Hawaii 1999, Act 71, Session Laws of Hawaii 1999, and Act
 36 198, Session Laws of Hawaii 2000, which fundamentally changed
 37 the general excise tax by eliminating much of the pyramiding
 38 related to the furnishing of services; and
 39

40 WHEREAS, as a result of the current sublease deduction,
 41 when both a sublessor and a sublessee pay rent on the same
 42 leased property, the sublessor may be allowed a tax deduction



1 from the gross proceeds or gross income that the sublessor
2 receives from the sublease, so that both parties are not
3 required to pay the full general excise tax on the gross
4 proceeds or gross income; and
5

6 WHEREAS, the Department of Taxation has taken the position
7 that the sublease deduction cannot be applied to mitigate the
8 impact of pyramiding when an operator of transient
9 accommodations, such as a hotel, pays rent to a landlord and the
10 guest pays room charges to the operator, even though the room
11 charge paid to the operator represents, at least in substantial
12 part, a charge for occupancy of real property, and the rent the
13 operator pays to the landlord is a charge for occupancy of the
14 same real property; now, therefore,
15

16 BE IT RESOLVED by the Senate of the Twenty-eighth
17 Legislature of the State of Hawaii, Regular Session of 2016, the
18 House of Representatives concurring, that the Tax Review
19 Commission is requested to conduct or commission a study to:
20

21 (1) Evaluate the impacts of a general excise and use tax
22 increase, as proposed under Senate Bill No. 2599 for
23 public education and Senate Bill No. 2478 for long-
24 term care financing; and
25

26 (2) Analyze whether the sublease deduction can and should
27 be applied to hotels in a manner similar to other
28 subleased real property; and
29

30 BE IT FURTHER RESOLVED that the Tax Review Commission is
31 requested to submit the study to the Legislature and Governor
32 with the Commission's final report under article VII, section 3,
33 of the state constitution; and
34

35 BE IT FURTHER RESOLVED that a certified copy of this
36 Concurrent Resolution be transmitted to the Chairperson of the
37 Tax Review Commission.

