



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTIETH LEGISLATURE, 2019**

ON THE FOLLOWING MEASURE:

S.B. NO. 1069, S.D. 1, H.D. 1, RELATING TO REDUCTION OF NOISE FROM HELICOPTER OPERATIONS.

BEFORE THE:

HOUSE COMMITTEE ON FINANCE

DATE: Friday, March 29, 2019

TIME: 3:30 p.m.

LOCATION: State Capitol, Room 308

TESTIFIER(S): Clare E. Connors, Attorney General, or
Kristen M.R. Sakamoto, Deputy Attorney General

Chair Luke and Members of the Committee:

The Department of the Attorney General provides the following comments and respectfully suggests that changes be considered if the bill advances.

This bill (1) establishes an income tax credit for taxpayers who install a helicopter noise canceling technology system; (2) imposes a general excise tax surcharge on "commercial helicopter businesses," measured by the number of passengers transported within a calendar month; and (3) establishes a helicopter noise-canceling technology system special fund, into which the proceeds from the surcharge shall be deposited.

The helicopter surcharge may be subject to a preemption challenge under the federal Anti-Head Tax Act, which provides that a state "may not levy or collect a tax, fee, head charge, or other charge on—(1) an individual traveling in air commerce; (2) the transportation of an individual traveling in air commerce; (3) the sale of air transportation; or (4) the gross receipts from that air commerce or transportation." 49 U.S.C. § 40116(b); see also Aloha Airlines, Inc. v. Director of Taxation, 464 U.S. 7, 12-14 (1983) (tax on the gross income of airlines expressly preempted); Balloons Over the Rainbow, Inc. v. Director of Revenue, 427 S.W.3d 815, 827 (Mo. 2014) (tax on untethered hot air balloon rides preempted). The term "air commerce" includes "the operation of aircraft that directly affects, or may endanger safety in, foreign or interstate

air commerce." 49 U.S.C. § 40102(a)(3). In Hill v. National Transportation Safety Board, 886 F.2d 1275, 1280 (10th Cir. 1989), the United States Court of Appeals for the Tenth Circuit held that the operation of a helicopter, even when operating purely intrastate, falls within the definition of "air commerce" because of the potential to endanger safety in foreign or interstate air commerce.

To avoid a preemption challenge, we recommend deleting section 2 of the bill, which establishes the surcharge and the special fund to which the revenue from the surcharge will be deposited.

Thank you for the opportunity to provide comments.

DAVID Y. IGE
GOVERNOR

JOSH GREEN M.D.
LIEUTENANT GOVERNOR



LINDA CHU TAKAYAMA
DIRECTOR

DAMIEN A. ELEFANTE
DEPUTY DIRECTOR

**STATE OF HAWAII
DEPARTMENT OF TAXATION**

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To: The Honorable Sylvia Luke, Chair
and Members of the House Committee on Finance

Date: Friday, March 29, 2019
Time: 3:30 P.M.
Place: Conference Room 308, State Capitol

From: Linda Chu Takayama, Director
Department of Taxation

Re: S.B. 1069, S.D. 1, H.D. 1, Relating to Reduction of Noise from Helicopter Operations

The Department of Taxation (Department) offers the following comments regarding S.B. 1069, S.D. 1, H.D. 1, for the Committee's consideration.

S.B. 1069, S.D. 1, H.D. 1, establishes a new income tax credit for helicopter noise canceling technology. A summary of key provisions are as follows:

- Adds a new section to chapter 235, Hawaii Revised Statutes (HRS), establishing a helicopter noise canceling technology system tax credit;
- Sets the amount of the credit as an unspecified dollar amount for each system installed by the taxpayer on a helicopter owned by the taxpayer and operated primarily within the State for the taxable year;
- Limits the credit to one tax credit per helicopter;
- Creates a carryforward where a 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;
- Requires a taxpayer to submit to the Department a certification from a qualified inspector or other qualified person that the helicopter and the helicopter's noise-canceling technology system meet the credit's requirements;
- Defines "helicopter noise canceling technology system" as any modification or equipment that is installed onto a helicopter with the effect of reducing the amount of noise emitted from the helicopter to an unspecified maximum sound level (measured in decibels), as measured at an unspecified distance (measured in feet) from the helicopter;
- Makes the credit available for taxable years beginning after December 31, 2019, and ending before January 1, 2022;
- Adds a new section to chapter 237, HRS, creating a "tour helicopter surcharge" collected on all gross proceeds from every commercial helicopter business;

- Sets two unspecified surcharge amounts depending on different unspecified numbers of passengers transported per month;
- Requires the Director of Taxation (Director) to revise the general excise tax forms to provide for the clear and separate designation of the imposition and payment of the tour helicopter surcharge;
- Requires the director to collect the surcharge and deposit its proceeds into the helicopter noise-canceling technology system special fund;
- Adds a new section to chapter 237, HRS, establishing within the state treasury a helicopter noise-canceling technology system special fund, to be administered by the Director, with all monies paid into the fund to be appropriated or expended by the Department for the administration of the helicopter noise-canceling technology system tax credit created by this bill; and
- Has a defective effective date of July 1, 2050.

The Department notes that the House Committee on Judiciary amended the previous version of this measure by removing provisions that restricted the flights of commercial tour helicopters within certain hours and prohibited commercial flights within one mile of a residential neighborhood. The Committee also amended the measure to establish a tour helicopter surcharge and a helicopter noise-canceling technology system special fund.

First, the Department appreciates the inclusion of language requiring taxpayers to submit a certification form from a qualified inspector or other qualified person that the helicopter and the helicopter's noise-canceling technology system meet the credit's requirements for noise reduction. If the Committee wishes to advance this measure, the Department respectfully requests that this requirement be maintained. However, given the Department's lack of subject-matter expertise in aviation, the Department also suggests adding language to define "qualified inspector or other qualified person," and language specifying exact amounts of required sound level reduction and measurement distance, rather than having those elements determined by administrative rule. This will help effectuate better tax administration and reduce taxpayer and industry confusion.

Second, the Department notes that there may be a conflict in the new surcharge. The language of the surcharge purports to apply to "every commercial helicopter business," even though only tour helicopters are specifically addressed. If the intent of the Legislature is to treat tour helicopters differently from other commercial helicopter businesses, the Department recommends specifically defining "tour helicopters" and delineating how the surcharge only applies to them, in order to avoid industry and taxpayer confusion.

Finally, although H.D. 1 has a defective effective date of July 1, 2050, if the Committee wishes to advance this measure with the new surcharge, the Department respectfully requests that the effective date of the surcharge be made no earlier than January 1, 2020. The Department also requests that the credit remain available for taxable years beginning after December 31, 2019. These effective dates will allow time for the Department to make the necessary form, instruction, and computer system changes before the credit and surcharge take effect.

Thank you for the opportunity to provide comments.

DAVID Y. IGE
GOVERNOR



RODERICK K. BECKER
DIRECTOR

ROBERT YU
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
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ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

TESTIMONY BY RODERICK K. BECKER
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON FINANCE
ON
SENATE BILL NO. 1069, S.D. 1, H.D. 1

March 29, 2019
3:30 p.m.
Room 308

RELATING TO REDUCTION OF NOISE FROM HELICOPTER OPERATIONS

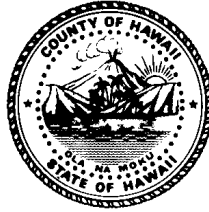
Senate Bill (S.B.) No. 1069, S.D. 1, H.D. 1: establishes a tax credit of an unspecified amount for taxpayers who install a helicopter noise-canceling technology system (HNCTS) on a helicopter owned by the taxpayer and operated primarily within the State during the taxable year; establishes a tour helicopter surcharge (THS) of an unspecified amount; and establishes the Helicopter Noise-Canceling Technology System Special Fund (HNCTSSF) to be administered by the Director of Taxation. The HNCTSSF would collect all revenues generated by the THS and be used to pay for the administrative costs of the HNCTS tax credit. This bill does not provide an expenditure ceiling for the HNCTSSF.

As a matter of general policy, the department does not support the creation of any special fund which does not meet the requirements of Section 37-52.3, HRS. Special funds should: 1) serve a need as demonstrated by the purpose, scope of work and an explanation why the program cannot be implemented successfully under the general fund appropriation process; 2) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries or a clear link between the program

and the sources of revenue; 3) provide an appropriate means of financing for the program or activity; and 4) demonstrate the capacity to be financially self-sustaining. In regards to S.B. No. 1069, S.D. 1, H.D. 1, it is difficult to determine whether the proposed special fund would be self-sustaining.

Thank you for your consideration of our comments.

Harry Kim
Mayor



Wil Okabe
Managing Director

Barbara J. Kossow
Deputy Managing Director

County of Hawai‘i Office of the Mayor

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March 27, 2019

Representative Sylvia Luke, Chair
Representative Ty J.K. Cullen, Vice Chair
Committee on Finance

Dear Chair Luke, Vice Chair Cullen, and Committee Members:

RE: SB 1069, SD1, HD1 Relating to Reduction of Noise from Helicopter Operations

SB 1069, SD1, HD1 offers a tax credit (in an undetermined amount) for installation of “noise canceling technology.” Given the noise complaints that helicopters generate, this kind of approach might be welcome news, if it makes a meaningful difference.

I gather that House Judiciary decided to remove the provisions of SB 1069, SD1, which prohibited the flights of commercial tour helicopters within one mile of a residential neighborhood and limited the hours of a helicopter’s operations. I regret that such prohibitions have been deleted, but must defer to your best judgment in this matter as to what can survive legal scrutiny and the legislative process.

I also must defer to the experts to suggest what the appropriate decibel level should be to qualify for the credit, and how much the credit should be. But I would ask this Committee to be as stringent as reasonably possible. To qualify for the benefit of a tax credit, the helicopter industry must become a responsible and considerate corporate member of our community, and it is not there yet.

Respectfully Submitted,

Harry Kim
MAYOR

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Tax Credit for Helicopter Noise Canceling Technology System

BILL NUMBER: SB 1069, HD-1

INTRODUCED BY: House Committee on Judiciary

EXECUTIVE SUMMARY: Establishes an income tax credit of \$_____ for each helicopter noise canceling technology system installed by the qualified taxpayer. Sunsets 12/31/2021. A direct appropriation would be preferable as it would provide some accountability for the taxpayer funds being utilized to support this effort. Meaning, we as taxpayers know what we're getting and we know how much we're paying for it.

SYNOPSIS: Adds a new section to chapter 235, HRS, to establish the credit. The amount of the credit would be \$_____ per system installed.

The credit is not refundable but may be carried forward until exhausted.

Provides that all claims for this credit, including any amended claims, shall be filed on or before the end of the twelfth month following the close of the taxable year for which the credits may be claimed.

Defines "helicopter noise canceling technology system" as any modification or equipment that is installed onto a helicopter with the effect of reducing the amount of noise emitted from the helicopter to a maximum sound level of ___ dBA as measured ___ feet from the helicopter.

Defines "qualified taxpayer" as a taxpayer who installs a helicopter noise canceling technology system on a helicopter owned by the taxpayer and which is operated primarily within the State for the taxable year.

Provides that the credit shall be available for taxable years beginning after December 31, 2018, and ending before January 1, 2022.

Adds a new section to chapter 237, HRS, establishing a tour helicopter surcharge on every commercial helicopter business. The surcharge would have two tiers, \$___ for ___ passengers transported within a calendar month, and \$___ for ___ passengers transported within a calendar month. The surcharge would be paid into the helicopter noise-canceling technology special fund.

Adds a new section to chapter 237, HRS, establishing the helicopter noise-canceling technology special fund. Moneys in the fund would be expended by DOTAX to administer the tax credit.

EFFECTIVE DATE: July 1, 2050.

STAFF COMMENTS: Lawmakers need to keep in mind two things. First, the tax system is the device that raises the money that they, lawmakers, like to spend. Using the tax system to shape

social policy merely throws the revenue raising system out of whack, making the system less than reliable as there is no way to determine how many taxpayers will avail themselves of the credit and in what amount. The second point to remember about tax credits is that they are nothing more than the expenditure of public dollars, but out the back door. If, in fact, these dollars were subject to the appropriation process, would lawmakers be as generous about the expenditure of these funds when our kids are roasting in the public school classrooms, there isn't enough money for social service programs, or our state hospitals are on the verge of collapse?

If lawmakers want to subsidize the purchase of this type of equipment, then a direct appropriation would be more accountable and transparent. Lawmakers also could consider mandating adoption of the technology.

Furthermore, the additional credit would require changes to tax forms and instructions, reprogramming, staff training, and other costs that could be massive in amount. A direct appropriation may be a far less costly method to accomplish the same thing.

We understand that the bill now provides for a GET surcharge to support the credit by raising moneys to be deposited into a special fund out of which the credit would be paid. However, we doubt that this system will work as intended because the credit is nonrefundable. It reduces the amount of tax that a taxpayer otherwise would pay, and the credit would not be refunded or paid to any taxpayer. Thus, what would the special fund pay other than expenses of administration?

With that observation, we question whether the proposed new special fund would meet the criteria in law for the establishment and continuance of a special fund.

In 2002, the Legislature set requirements for establishing and continuing special and revolving funds. Sections 37-52.3 and 37-52.4, HRS, now state that the criteria used to review special and revolving funds are the extent to which each fund:

- Serves a need, as demonstrated by the purpose of the program to be supported by the fund; the scope of the program, including financial information on fees to be charged, sources of projected revenue, and costs; and an explanation of why the program cannot be implemented successfully under the general fund appropriation process;
- Reflects a clear nexus between the benefits sought and charges made upon the program users or beneficiaries, or a clear link between the program and the sources of revenue—as opposed to serving primarily as a means to provide the program or users with an automatic means of support, removed from the normal budget and appropriation process;
- Provides an appropriate means of financing for the program or activity, that is used only when essential to the successful operation of the program or activity; and
- Demonstrates the capacity to be financially self-sustaining.

We are concerned that a new levy being directed to a new special fund violates the statutory criteria and subverts the appropriation process.

Digested 3/27/2019

Testimony to the House Committee on Finance
Representative Sylvia Luke, Chair
Representative Ty J.K. Cullen, Vice Chair
Friday, 29 March 2019 3:30 PM
State Capitol, Conference Room 325

Re: Senate Bill 1069, H.D. 1
From: SAFARI AVIATION, INC, via David Bettencourt

Safari Aviation, Inc., (“Safari”) provides charter and tours in fixed-wing and helicopters in Hilo and Lihue. It opposes Section 1 of S.B. 1069, H.D. 1, as illegal and unenforceable, but provides comments on Sections 1 and 2 to assist this Committee

The State of Hawai’i seems intent on challenging the federal preemption of all aviation activities, as it seeks ways to discriminate between and among operators. Section 1 provides for differential state taxation of identical aeronautical operations, and this has always been a red flag for the FAA, particularly when adopted in a State where all the airports are owned and operated by the State of Hawai’i. As drafted, this law is nearly impossible to implement and regulate on an effective basis. Section 1(e) does not attempt to define what is a “qualified inspector or other qualified person” to provide certification, nor do any such persons or entities exist in Hawai’i.

Section 2 requires comment, as it will fail to make any significant impact as drafted, even if it survives FAA review in the post-*Santa Monica* era. Safari and virtually all tour operators already operate exclusively within these time periods without hardship. Safari, after numerous Hilo meetings with stakeholders, stopped conducting tours in Sundays, finding that most customers appreciate community participation and are willing to schedule tours other than on Sundays. Many residents blame tour helicopters for early morning noise, but the offenders are often self-labeled “media flights” that both the National Parks and the FAA fail to properly regulate. Most claimed media flights have no First Amendment protection as they are not true media, but they generate most noise complaints. Unless Section 2 is amended to specifically include purported “media flights”, the early morning noise will remain unabated as it is not caused by valid tour operators. The State of Hawai’i will face legal challenges to Section 2, but not from Safari.



March 27, 2019

TESTIMONY SUBMITTED TO:

State of Hawaii, House of Representatives, Committee on Finance
Rep. Sylvia Luke, Chair; Rep. Ty J.K. Cullen, Vice Chair

COMMITTEE HEARING:

Friday, March 29, 2019, 3:30 P.M.
State Capitol Conference Room 308, 415 South Beretania Street, Honolulu, HI

SB1069 RE: RELATING TO REDUCTION OF NOISE FROM HELICOPTER OPERATIONS

Jack Harter Helicopters, Inc. is a Hawaii-based and family-owned helicopter tour, charter, utility, and external load operator based on Kauai. We operate 4 helicopters daily and directly employ 36 Hawaii residents and the downstream benefits to the economy in the state are quite wide. Jack Harter began flying on Kauai in 1962 and the company he founded has developed and maintains a mutually-respectful relationship with the lands and people we fly over on all of our missions.

We and our industry partners have worked with the community to develop a flight path that minimizes our impact on those on the ground. We recognize that Kauai is a scenic gem in the middle of the Pacific Ocean that many visitors and locals want to view from the air and enjoy from the ground. Some of the passengers we fly have no other means of seeing the island than from the air due to physical limitations or time constraints. In one hour, helicopter tour passengers can view more than half of the island without driving on the roads, walking the trails, or leaving any long-term evidence that they were ever there. At the same time, we understand that our aircraft generate sounds that some on the ground think of as noise.

We have been tracking SB1069 since its introduction. In its initial form, the bill included a tax credit for helicopter companies that operated helicopters with “noise-cancelling technology systems” and proposed restrictions on commercial tour helicopter flights between 6PM and 8AM. We did not agree with either of these proposals.

The most recent rendition of SB1069 (H.D. 1) has:

1. eliminated the flight restriction language on helicopter tour flights since the FAA is the only entity that can enact regulations to the national airspace. *We support this change to SB1069.*

2. added new language to the bill that would create a “Tour Helicopter Surcharge” and a “Helicopter Noise-Canceling Technology System Special Fund”. *We are opposed to these additions to SB1069 and the original language in the bill that would create a “helicopter noise-canceling technology system tax credit” on the following grounds:*

A. As the Helicopter Association International (HAI) has previously testified, there are no “noise-cancelling” systems available that would reduce or eliminate the rotor and/or engine noise created by helicopters. There are features on some commercially available helicopters that reduce the noise they make compared to helicopters of similar passenger or weight-carrying capacities. The difference in the measurable sound signatures between current aircraft with “quite technology” features and helicopters with “standard technologies” are 1-4 decibels. These differences are barely detectable by most people or measuring devices on the ground.

B. The tax credit amount and the required sound reduction required to receive the tax credit are not listed in SB1069. This makes a cost-benefit analysis of SB1069 impossible. With over 50 years in the Hawaii helicopter industry, we predict that no matter what the tax credit is set at, the cost of incorporating noise-reducing technologies would not be recaptured by helicopter operators in the two year life of the proposed tax credit.

C. The proposed “Tour Helicopter Surcharge” and “Helicopter Noise-Canceling Technology System Special Fund”, do not appear to end when the tax credit ends.

D. The proposed surcharge on helicopter tour flights in Hawaii is discriminatory and most likely in violation of the FAA’s Grant Assurances that the State of Hawaii has agreed to follow. The Grant Assurances require the grantees to behave in a non-discriminatory manner when establishing rules and regulations related to aviation operations based at airports that receive federal grants for their maintenance and operations. If the State of Hawaii decides to tax only one type of aviation activity, the State will likely face a Part 16 complaint from the helicopter tour operators and risk losing the millions of dollars in federal grant money they receive annually.

E. Many of the helicopter noise complaints received by the State, FAA, and the Hawaii Helicopter Association’s helpline are related to non-tour helicopter operations. “Green Harvest” marijuana eradication helicopter flights have been the source of the majority of the helicopter noise complaint calls on Kauai over the last 5 years.

Thank you for considering our testimony and we urge your committee to **oppose passage of SB1069** through your committee.



Casey Riemer
Special Project Manager



Dedicated to the Advancement of the International Helicopter Community

March 28, 2019

To: Chair Sylvia Luke
Vice Chair Ty J.K. Cullen
House Committee on Finance

From: Cade Clark, Vice President of Government Affairs
Helicopter Association International

Subject: **Measure:** SB 1069
Hearing Date: March 29, 2019
Time: 3:30 p.m.
Location: Conference Room 308, State Capitol

Bill Description: Establishes a tax credit for taxpayers who install a helicopter noise-canceling technology system on a helicopter owned by the taxpayer and operated primarily within the State during the taxable year. Establishes a tour helicopter surcharge. Establishes a helicopter noise-canceling technology system special fund.

HELICOPTER ASSOCIATION INTERNATIONAL'S (HAI) POSITION: OPPOSED

Helicopter Association International (HAI) thanks the Hawaii State Legislature for removing language from the previous version of SB 1069 that sought to regulate aircraft operations, creating a violation of federal preemption.

HAI supports implementation of available helicopter quiet technology that lessens the impact of noise. However, we do not support the approach laid out in SB 1069. SB 1069 provides a tax credit for taxpayers that install helicopter noise canceling technology and contains new language to create a "Tour Helicopter Surcharge" and a "Helicopter Noise-Canceling Technology System Special Fund."

The bill defines helicopter noise canceling technology system as "any modification or equipment that is installed onto a helicopter with the effect of reducing the amount of noise emitted from the helicopter". This definition is ambiguous as the generally accepted phraseology to address noise mitigation is "quiet technology" since there is no current existing technology to cancel noise. The bill does not define the maximum dBA sound level and the open-ended language does not provide information on what to expect in the way of incentive or the budget impact respectively for either operator or the state.

As written, to fund the helicopter noise-canceling technology system special fund, SB 1069 would create a tour helicopter surcharge on every commercial helicopter business. This surcharge would be levied, assessed, and collected on all gross proceeds and gross income taxable.

The Anti-Head Tax Act (AHTA) 49 U.S.C. § 40116(b) states that a State, a political subdivision of a State, and any person that has purchased or leased an airport under section 47134 of this title may not levy or collect a tax, fee, head charge, or other charge on—

- (1) an individual traveling in air commerce;
- (2) the transportation of an individual traveling in air commerce;
- (3) the sale of air transportation; or
- (4) the gross receipts from that air commerce or transportation.

HAI feels that SB 1069's tour helicopter surcharge on every commercial helicopter business is in violation of the AHTA.

Additionally, the proposed surcharge on helicopter tour flights in Hawaii is discriminatory against helicopter tour operators who would solely bare the cost of funding the helicopter noise-canceling technology system special fund; a fund available to any qualified taxpayer "who installs a helicopter noise-canceling technology system on a helicopter owned by the taxpayer and which is operated primarily within the State during the taxable year."

Moreover, the surcharge amount or number of passengers transported within a calendar month is not defined. While the tax credit has a clear ending date, the proposed surcharge and special fund have no clear end date.

HAI appreciates the opportunity to provide additional comments on the new provisions added to SB 1069. HAI seeks to serve as a resource to the Hawaii State Legislature on issues pertaining to the helicopter industry and strives to find solutions that can address all stakeholders.

HAI is the professional trade association for the civil helicopter industry. HAI's 1,500 plus organizational members and 1,800 individual members operate more than 4,500 helicopters approximately 2.3 million flight hours each year in 73 nations. HAI is dedicated to the promotion of the helicopter as a safe, effective business tool and to the advancement of the international helicopter community.



Activities & Attractions Association of Hawaii
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Testimony to the
COMMITTEE OF FINANCE
Rep. Sylvia Luke, Chair
Rep. Ty J.K. Cullen, Vice Chair

Friday, March 29, 2019, 3:30 P.M.
Conference Room 308
RE: Opposition to SB1069

RELATING TO TAX EXEMPTION & REDUCTION OF NOISE FROM HELICOPTER OPERATIONS

Aloha Chair Representative Luke and Vice Chair Representative Cullen along with members the committee,

Mahalo for this opportunity to testify, my name is Toni Marie Davis. For the last 22 years, it has been my honor to serve the Activity & Attraction industry of Hawaii through my position as the Executive Director of A3H (Activities & Attractions Association of Hawaii). A3H represents nearly 200 businesses statewide. Our members range in size from very large (over 300 employees) to very small (1-2 employees). Helicopter tour businesses which are members include Air Maui, Blue Hawaiian Helicopters, Jack Harter Helicopters, Magnum Helicopters, Paradise Helicopters, Safari Helicopters, and Sunshine Helicopters.

Initially, this Bill was an attempt to expand a very old airline maintenance tax exemption to benefit at most two, likely only one helicopter company. The basis of quiet technology is non-quantitative and vague. There was disagreement within the industry on whether to support or oppose the original Bill. ***In its current form, all helicopter companies oppose.***

Hawaii's economic engine is tourism. Tourism is a fabulous gift for any destination, as people take hard-earned money created in one economy, then travel to Hawaii, injecting it into our economy. The big tourism challenge is to manage these visitors when on the island to ensure this place remains protected and preserved and our residents retain a high quality of life. Essentially it is about balance.

Helicopters tours are the epitome of a "look don't touch" experience. Tickets for these tours are among the highest. The cost to operate a helicopter business is multiple millions of dollars, with strict FAA requirements and costly maintenance schedules. These companies have their costs down to the per minute.

They are a very valuable part of making lifetime memories for visitors. The only outcry against them is noise. There is no such thing as a quiet helicopter or "noise canceling" technology. There are fly neighborly programs and noise abatement requirements all active in Hawaii. Most occurrences of low flying aircraft do not



Activities & Attractions Association of Hawaii
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Involve sightseeing helicopter Tours, rather private or service charter based; they do not fall under the same regulations.

Sightseeing tour helicopters in Hawaii fall under CFR Part 136, Appendix A (this is strictly about Hawaii – thank s to Patsy Mink). It requires all sightseeing tour fly at 1,500 feet except where deviation authority has been given by the FAA. These deviation locations allow helicopters to fly as low as 500 feet. These locations are remote, where there is no notable population on the ground — the effective decibels of a person below a helicopter at 1,500 feet well below 85 decibels. For comparison, a riding lawnmower is slightly louder than 85 decibels, and it lasts much longer.

Quiet technology has a marketing side, and it lacks quantifiable data. It reminds me of Eco-Tourism; the idea is excellent – impeccable without a doubt something we need and should embrace yet quantifying it is difficult.

Here is the back story on the non-existent Air Tour Management Plan. This is specifically for National Parks. There has been an on-going battle between the National Parks and FAA since its conception in 2000. It is, for the most part, a standoff. The National Parks are consistently pushing for no-fly zones overall National Parks, and the FAA is attempting to have a compromise. Hence, no plan.

At one time this Bill also contains no-fly times and days of the week. This was removed as airspace jurisdiction is Federal and cannot be enforced or restricted at the state level. The new language, which added a Helicopter surcharge is inappropriate as it discriminates a specific air type and service.

This discrimination violates the strings attached to the Billions of dollars received by our airports from the Federal government. These grant assurances were challenged a few decades ago. As a result, Aloha Airlines filed a suit again the State, which went to Supreme Court. To this day airlines (including helicopter's) are exempt from Hawaii General Excise Tax. Airspace is federal jurisdiction.

Please defer SB1069 SD1 HD1; It is bad legislation in its current form.

Thank you again for the opportunity to testify.

Sincerely,

Toni Marie Davis
Executive Director



Paradise Helicopters
P.O. Box 5371
Kailua-Kona, HI 96745

27 March 2019

To: Chair Sylvia Luke
Vice Chair Ty J.K. Cullen
House Committee on Finance

From: Bronsten Kossow
Public Relations and Government Affairs
Paradise Helicopters

Subject: **Measure:** S.B. 1069 S.D. 1 H.D. 1
Hearing Date: 29 March 2019
Time: 3:30PM
Location: Hawaii State Legislature, Rm. 308

Bill Description: Establishes a tax credit for taxpayers who install a helicopter noise-canceling technology system on a helicopter owned by the taxpayer and operated primarily within the State during the taxable year. Establishes a tour helicopter surcharge. Establishes a helicopter noise-canceling technology system special fund. (S.B.1069 S.D. 1 H.D.1)

Paradise Helicopters Position: OPPOSE

Aloha,

Paradise Helicopters opposes S.B. 1069 S.D. 1 H.D. 1.

S.B. 1069 does not provide the necessary guidelines to help reduce or mitigate noise, instead it penalizes both businesses and the consumer by placing a surcharge per seat, in an already expensive industry.

S.B. 1069 Section 1E "A taxpayer claiming a tax credit pursuant to this section shall submit to the department of taxation a certification from a qualified inspector or other qualified person that the helicopter and the

helicopter's noise-canceling technology system meet the requirements of this section."

- Section 1E would create a position "qualified inspector or person" to determine what quiet technology defines.
- Section 1E does not specify criteria behind what the approved systems are on the aircraft.
- Section 1E does not specify which department the individual belongs to, or what the qualifications are behind the position.
- Section 1E does not specify who has jurisdiction, i.e. Department of Health, Department of Transportation, or Department of Taxation.

S.B. 1069 Section 1F: For the purpose of this section:

"Helicopter noise-canceling technology system" means any modification or equipment that is installed onto a helicopter with the effect of reducing the amount of noise emitted from the helicopter to a maximum sound level of dBA as measured _____ feet from the helicopter.

- S.B. 1069 Section 1F define "Helicopter noise-canceling technology system" as a 'modification or equipment', helicopter noise canceling technology currently does not exist.
- Section 1F leaves decibel (dBA) level and measurement (feet) distances regulated by an undetermined government entity and does not specify the definition i.e. definition between "Above Ground Level" (AGL) or "Mean Sea-Level" (MSL) when measuring distance.

S.B. 1069 Section 2a, 1-2, "\$237- Tour helicopter surcharge. (a) There shall be levied, assessed, and collected on all gross proceeds and gross income taxable under this chapter a tour helicopter surcharge on every commercial helicopter business. The tour helicopter surcharge shall be as follows:

(1) For _____ passengers transported within a calendar month \$ _____ ; and

(2) For _____ passengers transported within a calendar month \$ _____ ;

- S.B. 1069 Section 2A 1-2 creates a surcharge per seat. This does not define how many passengers are on a commercial flight, or how a business would report it?

- Section 2A 1-2 does not define the word “tour” and “commercial” as determined by Flight Aviation Regulations (FAR):
 - Flight Aviation Regulations (FAR) 14 CFR Part 135 - Operating requirements: Commuter and on demand operations and rules governing persons on board such aircraft.
 - For example, all commercial flights such as commercial transportation, tour operations, ferry flights, specific contracted government operations, or any flights where compensation is made.
- Internal Revenue Service (IRS) Publication 510
 - The (federal excise) tax does not apply to air transportation by helicopter if the helicopter is used for any of the following purposes.
 - Transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, oil, or gas.
 - Planting, cultivating, cutting, transporting, or caring for trees (including logging operations).
 - Providing emergency medical transportation.
 - However, during a use described in items (1) or (2), the tax applies if the helicopter takes off from, or lands at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise uses services provided under section 44509 or 44913(b) or subchapter I of chapter 471 of title 49, United States Code. For item (1), treat each flight segment as a separate flight.
 - Internal Revenue Code 4281
 - Sightseeing Flights IRC § 4281 was amended by SAFETEA to create a “sightseeing” exemption for an aircraft with a certificated takeoff weight of 6,000 pounds or less at any time during which such aircraft is being operated on a flight the sole purpose of which is sightseeing. Cite: IRC § 4281. Therefore, sightseeing flights on small aircraft are exempt from the domestic air transportation taxes for flights which occur after September 30, 2005. This amendment did not impact the taxability of sightseeing tours on aircraft or helicopters larger than 6,000 pounds. Excise Tax – Air Transportation 3- 3 Audit Techniques Guide Revised 04/08

Mahalo for the opportunity to testify and urge members to oppose S.B. 1069 S.D.1 H.D.1 in its entirety.

Paradise Helicopters

SB-1069-HD-1

Submitted on: 3/28/2019 4:10:12 PM

Testimony for FIN on 3/29/2019 3:30:00 PM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|----------------------|---------------------------|---------------------------|
| Reagancarl O'Connor | Paradise Helicopters | Oppose | No |

Comments:

Aloha,

I oppose SB 1069 S.D.1 H.D.1 due to the extra surcharge that will burden the business.

- SB 1069 does not provide the necessary guidelines to help reduce or mitigate noise, instead it penalizes both businesses and the consumer by placing a surcharge per seat, in an already expensive industry.
- SB 1069 Section 1E would create a position “qualified inspector or person” to determine what quiet technology defines.
 - Section 1E does not specify criteria behind what the approved systems are on the aircraft.
 - Section 1E does not specify which department the individual belongs to, or what the qualifications are behind the position.
 - It does not specify who has jurisdiction, i.e. Department of Health, Department of Transportation, or Department of Taxation.
- SB 1069 Section 1F defines “Helicopter noise-canceling technology system” There are mitigation systems that can be put into place, noise canceling technology systems does not exist.
 - Section 1F leaves decibel (dBA) level and measurement (feet) distances regulated by an undetermined government entity.
- SB 1069 Section 2A 1-2 creates a surcharge for per seat, how would the state determine how many passengers are on a flight?

Mahalo,

Reagancarl K. O'Connor

SB-1069-HD-1

Submitted on: 3/27/2019 9:12:22 PM

Testimony for FIN on 3/29/2019 3:30:00 PM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Jeannine Johnson | Individual | Support | No |

Comments:

Aloha mai kākou,

My neighborhood experiences loud invasions of helicopter noise on a daily, even hourly, basis. It is more than just a nuisance. It negatively impacts our quality of life, afflicting our health with undue stress, disrupting our sleep and depriving us the right to the quiet enjoyment of our homes. If I had neighbors as noisy as the helicopters who fly incessantly overhead, I could ask HPD for help. I've called the FAA to report noisy helicopters at 11 pm, 4 am, and many times in-between without relief. Is it fair that residents have to suffer endlessly while the helicopter industry suffers no consequences? So although I support Senate Bill 1069, all commercial flights of tour helicopters within one mile of a residential neighborhood should be prohibited PERIOD. Mahalo for your kākou.

SB-1069-HD-1

Submitted on: 3/28/2019 2:40:19 PM

Testimony for FIN on 3/29/2019 3:30:00 PM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| G. Richard Schuman | Individual | Oppose | No |

Comments:

Aloha All

I am a helicopter operator on Oahu. I oppose this SB1069 because even if money was no object, currently, there is no such as Noise reducing technology or system that would or could make current helicopters quieter. This idea of simply putting on some type of muffler to make helicopters less noticeable does not exist in the free world.

All operators would gladly install equipment to make their aircraft less noisy if such technology was invented, it has not, yet.

You cannot ask someone to do something that is impossible

Please vote No to SB1069

Thank you very much

Richard Schuman

Magnum Helicopters

306-1000 cel

SB-1069-HD-1

Submitted on: 3/28/2019 3:31:56 PM

Testimony for FIN on 3/29/2019 3:30:00 PM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Barbara J. Service | Individual | Support | Yes |

Comments:

Please do everything you can to prevent tour helicopters from constant traffic over residential areas.

Mahalo!

Barbara J. Service MSW (ret)

House District 19

Senate District 9

SB-1069-HD-1

Submitted on: 3/28/2019 4:02:22 PM

Testimony for FIN on 3/29/2019 3:30:00 PM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Shayna | Individual | Oppose | No |

Comments:

Aloha,

I oppose SB 1069 S.D.1 H.D.1 due to the extra surcharge that will burden the business.

- **SB 1069 does not provide the necessary guidelines to help reduce or mitigate noise, instead it penalizes both businesses and the consumer by placing a surcharge per seat, in an already expensive industry.**
- **SB 1069 Section 1E would create a position “qualified inspector or person” to determine what quiet technology defines.**
 - **Section 1E does not specify criteria behind what the approved systems are on the aircraft.**
 - **Section 1E does not specify which department the individual belongs to, or what the qualifications are behind the position.**
 - **It does not specify who has jurisdiction, i.e. Department of Health, Department of Transportation, or Department of Taxation.**
- **SB 1069 Section 1F defines “Helicopter noise-canceling technology system” There are mitigation systems that can be put into place, noise canceling technology systems does not exist.**
 - **Section 1F leaves decibel (dBA) level and measurement (feet) distances regulated by an undetermined government entity.**
- **SB 1069 Section 2A 1-2 creates a surcharge for per seat, how would the state determine how many passengers are on a flight?**

Mahalo,

Shayna

SB-1069-HD-1

Submitted on: 3/28/2019 4:03:25 PM

Testimony for FIN on 3/29/2019 3:30:00 PM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Tiffany Nakamura | Individual | Oppose | No |

Comments:

Aloha,

I oppose SB 1069 S.D.1 H.D.1 due to the extra surcharge that will burden the business.

- **SB 1069 does not provide the necessary guidelines to help reduce or mitigate noise, instead it penalizes both businesses and the consumer by placing a surcharge per seat, in an already expensive industry.**
- **SB 1069 Section 1E would create a position “qualified inspector or person” to determine what quiet technology defines.**
 - **Section 1E does not specify criteria behind what the approved systems are on the aircraft.**
 - **Section 1E does not specify which department the individual belongs to, or what the qualifications are behind the position.**
 - **It does not specify who has jurisdiction, i.e. Department of Health, Department of Transportation, or Department of Taxation.**
- **SB 1069 Section 1F defines “Helicopter noise-canceling technology system” There are mitigation systems that can be put into place, noise canceling technology systems does not exist.**
 - **Section 1F leaves decibel (dBA) level and measurement (feet) distances regulated by an undetermined government entity.**
- **SB 1069 Section 2A 1-2 creates a surcharge for per seat, how would the state determine how many passengers are on a flight?**

Mahalo,

Tiffany Nakamura

SB-1069-HD-1

Submitted on: 3/28/2019 4:08:31 PM

Testimony for FIN on 3/29/2019 3:30:00 PM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Michael Schabel | Individual | Oppose | No |

Comments:

I oppose this bill because it is a bill that is being pushed with no real substance to it and no research that went into it. Decibal levels are never mentioned and it is clearly a viewpoint of some people that have a bias against an industry that employs many people.

LATE

SB-1069-HD-1

Submitted on: 3/28/2019 4:26:46 PM

Testimony for FIN on 3/29/2019 3:30:00 PM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Dan Malakie | Individual | Oppose | No |

Comments:

Hawaii is built off the tourist industry. Further regulating helicopter operations for quiet technology and additional taxes reduces the ability for operators to employ and support employees in the local community. These types of decisions are being made without education into the implications to operators and financial constraints on helicopter companies which further limits the quality of employees they employ. Are we willing to lose highly qualified pilots and mechanics because Hawaii Helicopter Operators don't pay enough to support the cost of living in Hawaii? Are we willing to take on the inducted safety risk because of politicians involvement. Are you willing to put your name on that? The helicopter operators have been working with local politicians and communities toward solutions to help reduce noise and alter flight routes. Slapping legal ramifications on during discussions between parties is not working toward a common solution.

SB-1069-HD-1

Submitted on: 3/28/2019 4:51:50 PM

Testimony for FIN on 3/29/2019 3:30:00 PM



| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Leena Fuksa | Individual | Oppose | No |

Comments:

Aloha,

I oppose SB 1069 S.D.1 H.D.1 due to the extra surcharge that will burden the business.

- SB 1069 does not provide the necessary guidelines to help reduce or mitigate noise, instead it penalizes both businesses and the consumer by placing a surcharge per seat, in an already expensive industry.
- SB 1069 Section 1E would create a position “qualified inspector or person” to determine what quiet technology defines.
 - Section 1E does not specify criteria behind what the approved systems are on the aircraft.
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 - It does not specify who has jurisdiction, i.e. Department of Health, Department of Transportation, or Department of Taxation.
- SB 1069 Section 1F defines “Helicopter noise-canceling technology system” There are mitigation systems that can be put into place, noise canceling technology systems does not exist.
 - Section 1F leaves decibel (dBA) level and measurement (feet) distances regulated by an undetermined government entity.
- SB 1069 Section 2A 1-2 creates a surcharge for per seat, how would the state determine how many passengers are on a flight?

Mahalo,

Leena



LATE

State of Hawaii House Committee on Finance
Friday, March 29, 2019; 3:30 p.m.
SB 1069 SD1 HD1
Testimony of Nicole Vandelaar, Hawaii Helicopter Association

Chair Luke, Vice Chair Cullen and members of the House Finance Committee,

Thank you for the opportunity to testify in **opposition** to SB 1069 SD1 HD1, which removes the provisions that prohibited the flights of commercial tour helicopters within one mile of a residential neighborhood; establishes a tour helicopter surcharge on commercial helicopter businesses in the State; and establishes a Helicopter Noise-canceling Technology System Special Fund, into which the tour helicopter surcharge revenues shall be deposited, to be used to fund the tax credit for installing a noise-canceling technology system on a helicopter. **Please defer this measure.**

We understand the importance of addressing noise concerns and want to contribute positively to the discussion about this bill and any other related measures on behalf of our members. We are concerned that state level regulations pertaining to flight times and restrictions may be pre-empted by federal law. The proposed amendments to SB 1069 raise potential conflicts with federal law that we request the members of this Committee look into in greater detail. Under the Anti Head Tax Act (AHTA) 49 U.S.C. 40116(b) a state is prohibited from taxing an air carrier on the basis of gross receipts or a per passenger basis. Establishing this tax credit program has legal implications as precedent for all air carriers in Hawaii, not only air tour operators.

HHA and our members are committed to working collaboratively with the state and community on noise matters. Please do consider us a resource in these policy discussions.

Thank you again for the opportunity to testify in **opposition** to this measure.

LATE

SB-1069-HD-1

Submitted on: 3/29/2019 6:16:12 AM

Testimony for FIN on 3/29/2019 3:30:00 PM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Stacey Dorn | Individual | Oppose | No |

Comments:

S.B. 1069 does not provide the necessary guidelines to help reduce or mitigate noise, instead it penalizes both businesses and the consumer by placing a surcharge per seat, in an already expensive industry.

House Committee on Finance

Friday, March 29, 2019, Hearing
House Conference Room 308
3:30 PM Hearing

LATE

Senate Bill 1069, SD1, HD1
Relating to Reduction of Noise from Helicopter Operations

Aloha Chair Luke and Committee Members:

Excessive aircraft noise compromises the health and well-being of the Hawaii 's people, and statutory remedies are long overdue. Senate Bill 1069, when amended with improvements specific to helicopter noise impacts, can offer significant relief to thousands of suffering citizens in Hawai'i, particularly on O'ahu and Hawai'i Island.

The crescendo of community complaints building island-wide across the State demonstrate that tour helicopters have been increasingly inundating and impacting established communities with incessant noise invasion. While the Hawaii Helicopter Association¹ was recently established to collaboratively address tour helicopter issues within the industry as well noise impacts on the clearly affected communities below their flight paths, not all helicopter operators are cooperative or willing to mitigate and avoid helicopter overflight noise impacts.

More than a million annual visitors to the Diamond Head State Monument conservation district, both within the natural crater and hiking to the panoramic Summit, are incessantly impacted by the discordant thundering of low-flying tour helicopters piercing the surrounding environment two-to-three times hourly, eight hours per day, every day of the week. Their flight path is uncontrolled, cutting low over historic Kapi'olani Park and the surrounding residential areas, ascending to the slopes of Diamond Head and skimming the ridge to blast over the echoing crater.

Tour helicopters fly **under** the FAA Class B air space that is controlled by the FAA air traffic control towers and CERAP radar control facility at the airport. In Honolulu, air space controlled by FAA Air Traffic Control begins at the 4,000-foot level near Diamond Head according to the FAA Honolulu Flight Standards District Office. Therefore, the State DOT Airports Division and the State Department of Health have discretion to work with the FAA Flight Standards District Office to mitigate flight noise level impacts below the Class B air space to curtail and control local tour helicopter flights flying under Class B airspace with clear laws supported by consistent enforcement and penalties for non-compliance and repeated violations. No longer can this be excused as a difficult task with such new technology as the Flight Radar 24 app that anyone can use to detect maverick flights.

Commercial tour helicopter operators repeatedly fly as low as 300 feet over residential areas, constituting helicopter harassment that causes unbearable living conditions for thousands of Island residents and places the health and well-being of entire communities at stake. The adverse consequences of low-altitude overflights and associated

¹ <https://hawaiihelicopterassociation.org/>

unsafe gliding distances, escalating noise disturbances, and incessantly intrusive, jarring and exhausting disruptions cause daily and hourly adverse impacts on the quality of life for Hawaii's residents.

Recommendations

It is therefore respectfully recommended that Senate Bill 1069, SD1, be amended to progressively include comprehensive Sections addressing tour helicopter noise impact remedies, as described below:

Quiet technology. Such technology must be defined in clear and measurable terms, with parameters and incentives for required implementation, and statutory stipulations for installation and proven, measurable effects.

In previous testimony on such measures this Legislative Session, questions have arisen concerning the veracity and effective performance of "noise canceling technology." The now inactive measures stated that 75% of helicopters serviced and maintained annually must be equipped with such undefined technology. However it remains to be determined that this is not simply a market ploy and tax-break scheme.

Helicopter noise levels are generated by various mechanical components, including rotor and engine noise, and the cumulative noise level must be reduced to a specific decibel limit to be tolerably effective. Yet just as the worst offenders with the loudest helicopters flauntingly and repeatedly buzz Honolulu's rooftops and the residents below, they are also likely to flaunt their disregard of this option by remaining part of the 25% not covered by this envisioned requirement.

Increased tour helicopter flights with uncontrolled flight paths have drastically increased noise impacts on Hawai'i's established communities and their citizens. If not controlled, expanded helicopter fleets and increased numbers of flights by large baseline operations with so-called "quiet technology," as well as by smaller operations with obnoxious sound levels in violation of altitude and decibel limits, will continue to be responsible for a massive increase in cumulative helicopter noise impacts with greater frequency.

A required decibel threshold must be specified for an enforceable sound level limit in the vicinity of populated areas such as Oahu's shoreline communities, as well as conservation areas and visitor attractions including the Diamond Head State Monument. In traditionally quiet neighborhoods, pristine environmental areas, forest preserves and critical habitat areas, humans and endangered species alike are also being adversely impacted by the penetrating noise generated by low-flying helicopters.

The aircraft's overall noise level must be no greater than 50 decibels 200 feet from the helicopter as independently measured by regular qualified inspections with calibrated instruments designed for this purpose.²

This is the scientifically-evaluated decibel level limit for the lowest altitude tour helicopters have been incessantly flying over Honolulu communities 3 times per hour, eight hours per day, seven days per week.

See: *Progress report on aircraft noise abatement in Europe v3 - EPA Network*

5 The extension of noise mapping of aircraft noise within the framework of the European Noise Directive (EC/2002/49) to a lower limit of 50 dB Lden and 40 dB Lnight to improve representativity of the reported data for annoyance and health effects.

Minimum flight altitude and distance. Maintaining greater height and distance reduces tour helicopter noise levels. Additionally, to operate safely near Hawai'i's congested communities, conservation areas and other land forms, helicopters must have a safe glide path offshore in emergency situations. Many Hawaii helicopter operators have experienced such episodes, and inviting more by maintaining the status quo is not an option.

Flight patterns of commercial helicopter operators must be directed away from shoreline communities and established neighborhoods. Presently communities are placed at risk because of the random flight activities that are uncontrolled, and thus wholly unacceptable.

Below and outside of the FAA Class B air space, tour helicopters must maintain 1,000 feet above the highest obstacle within a horizontal radius of 2,000 feet of the aircraft.³

THE RULE

**Title 14 Code of Federal Regulations, Section 91.119,
Minimum safe altitudes, prohibits low flying except
under the following conditions:**

"Sec. 91.119 Minimum safe altitudes: General. Except when necessary for takeoff or landing, no person may operate an aircraft below the following altitudes: (a) Anywhere. An altitude allowing, if a power unit fails, an emergency landing without undue hazard to persons or property on the surface. (b) Over congested areas. Over any congested area of a city, town, or settlement, or over any open air assembly of persons, an altitude of 1,000 feet above the highest obstacle within a horizontal radius of 2,000 feet of the aircraft. (c) Over other than congested areas. An altitude of 500 feet above the surface, except over open water or sparsely populated areas. In those cases, the aircraft may not be operated closer than 500 feet to any person, vessel, vehicle, or structure. (d) Helicopters. Helicopters may be operated at less than the minimums prescribed in paragraph (b) or (c) of this section if the operation is conducted without hazard to persons or property on the surface. In addition, each person operating a helicopter shall comply with any routes or altitudes specifically prescribed for helicopters by the Administrator."

³ Reference: U.S. Department of Transportation Federal Aviation Administration Title 14, Section 91.119 - Minimum Safe Altitudes.

Flight Hours. Commercial tour helicopter flights during the day must be required to be offshore from shoreline residential neighborhoods, with no flights before 9 AM or at night after 8 PM, Mondays through Fridays; or between 5 PM and 10 AM on weekends and designated local and national holidays. Further, flight hours must be enforced, with penalties for violations.

Penalties. Monitoring and enforcement with tiered penalties tied to the number of violations must be implemented, together with revocation of commercial licenses for continued violations. Penalties for violations should be strictly enforced and commensurate with the violation and number of violations over a given period of time. Should there be recurring violations, the penalties should accordingly increase substantially, ultimately resulting in revocation of the operator's license.

Clearly, restrictions and controls must be imposed on commercial tour helicopter operations and intrusive noise disturbance above and around Hawai'i's established residential communities, together with consistent enforcement and stipulated penalties associated with violations.

To be effective in protecting the public health and welfare in the greater public interest, Senate Bill 1069 must address and cure disruptive noise impacts and environmental consequences caused by low-flying commercial helicopter operations. Therefore this measure must necessarily be a bold first step toward quieting residential areas now significantly suffering from helicopter noise impacts.

Flight altitudes must be increased significantly and flight patterns must be controlled. Flight distance from residential communities and natural land forms must be increased. Hours of operation must restrict early morning flights and weekend flights near populated communities, parks and recreational shorelines.

In view of the greater public health and welfare, The FAA Flight Standards District Office, State Airports Division and State Health Department need work collectively to remedy helicopter tour noise impacts on Hawai'i's communities.

Please strengthen SB 1069, SD1, HD1 accordingly. The affected residents, schools and businesses in Hawai'i's impacted communities cannot wait another year for this to happen.

Testimony respectfully submitted by Michelle S. Matson

SB-1069-HD-1

Submitted on: 3/29/2019 8:35:43 AM

Testimony for FIN on 3/29/2019 3:30:00 PM

LATE

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Cynthia Greene | Individual | Oppose | No |

Comments:

Hawaii is financially dependent on tourism dollars as are the helicopter companies. This bill will create a surcharge per seat sold. This penalizes both consumers and businesses.

I researched and did not find any technology for helicopter noise-concelling systems.

I oppose SB1069

Cynthia Greene

LATE

SB-1069-HD-1

Submitted on: 3/29/2019 7:29:02 AM

Testimony for FIN on 3/29/2019 3:30:00 PM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Lauren Douglas | Individual | Oppose | No |

Comments:

Aloha,

I oppose SB 1069 S.D.1 H.D.1 due to the extra surcharge that will burden the business.

- SB 1069 does not provide the necessary guidelines to help reduce or mitigate noise, instead it penalizes both businesses and the consumer by placing a surcharge per seat, in an already expensive industry.
- SB 1069 Section 1E would create a position “qualified inspector or person” to determine what quiet technology defines.
 - Section 1E does not specify criteria behind what the approved systems are on the aircraft.
 - Section 1E does not specify which department the individual belongs to, or what the qualifications are behind the position.
 - It does not specify who has jurisdiction, i.e. Department of Health, Department of Transportation, or Department of Taxation.
- SB 1069 Section 1F defines “Helicopter noise-canceling technology system” There are mitigation systems that can be put into place, noise canceling technology systems does not exist.
 - Section 1F leaves decibel (dBA) level and measurement (feet) distances regulated by an undetermined government entity.
- SB 1069 Section 2A 1-2 creates a surcharge for per seat, how would the state determine how many passengers are on a flight?

Mahalo,

Lauren Douglas

K&S Helicopters, Inc.
Dbā Paradise Helicopters
P.O. Box 5371
Kailua Kona, HI 96745



29 March 2019

Aloha,

I oppose SB 1069 S.D.1 H.D.1 due to the extra surcharge that will burden the business.

- SB 1069 does not provide the necessary guidelines to help reduce or mitigate noise, instead it penalizes both businesses and the consumer by placing a surcharge per seat that will make an already large expense even more more expensive.
- SB 1069 may be in conflict with existing federal law under the Anti Head Tax Act (AHTA) 49 U.S.C. 40116(b).
- SB 1069 Section 1E would create a position “qualified inspector or person” to determine what quiet technology defines.
 - The Section does not specify criteria behind what the approved systems are on the aircraft.
 - The Section does not specify which department the individual belongs to, or what the qualifications are behind the position.
 - It does not specify who has jurisdiction, i.e. Department of Health, Department of Transportation, or Department of Taxation.
- SB 1069 Section 1F defines “Helicopter noise-canceling technology system” There are mitigation systems that can be put into place however noise canceling technology systems do not currently exist.
 - Section 1F leaves decibel (dBA) level and measurement (feet) distances regulated by an undetermined government entity.
- SB 1069 Section 2A 1-2 creates a surcharge for per seat, how would the state determine how many passengers are on a flight?

Mahalo for serving the people of Hawaii.

Calvin G. Dorn
CEO

LATE

SB-1069-HD-1

Submitted on: 3/29/2019 1:15:52 PM

Testimony for FIN on 3/29/2019 3:30:00 PM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Tyler Dorn | Individual | Oppose | No |

Comments:

No technology exists to cancel the noise of helicopters. If we want all helicopter operators to install noise cancelling technology, why wouldn't we require the same of all vehicles, commercial airliners, military aircraft, etc?

The loudest aircraft in the sky are military helicopters, and I don't imagine any sort of legislation will apply to the military.

Additional taxes on each passenger will complicate helicopter tour business, and will require investigators to ensure the numbers of passengers that is reported to the tax offices is accurate, as it would be extremely easy for operators to misreport numbers.

LATE

3/29/19

To Chair Luke and Committee Members:

Many of us have lived in homes in this area for over 60 years. It was always a quiet, peaceful neighborhood. It is not near an airport. Now—that peace is shattered multiple times every hour (often every 10 minutes or more) by aircraft noise.

The tour helicopters are loud, low and plentiful. We are not talking about safety helicopters here. They do their work and then they are done. We are referring to a daily invasion of tour helicopters, affecting tens of thousands of residents state wide.

There are numerous solid studies clearly defining the detrimental effects of noise on health and well being. More studies would be redundant.

While noise reducing equipment on the aircraft may reduce to a small degree that noise, it in no way solves this serious problem.

Recommendations for Senate Bill 1069

**We need tour helicopters to fly off shore from residential neighborhoods during the day, and to not operate after 8 PM.*

**Minimum altitude when over non resident areas needs to be increased to 2,000 feet or more.*

**Helicopters need to have large and easily identifiable numbers and company logos on their bellies.*

**Violations of hours, flight paths and altitudes must result in substantial established fines, and flight permits should be capped or reduced immediately.*

We do not need delays or debates by corporate interests. We are in dire need of a timely solution. These tour helicopters should be higher up and away from our neighborhoods at all hours of operation.

If these recommendations are adopted, then I would support this bill. I am appealing to you, as your constituent, to help with this critical issue.

Thank you,

L. Blissard