

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 Donovan M. Dela Cruz, Chair
and Members of the Senate Committee on Ways and Means

Date: Wednesday, February 6, 2019
Time: 10:00 A.M.
Place: Conference Room 211, State Capitol

From: Linda Chu Takayama, Director
Department of Taxation

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

The Department of Taxation (Department) appreciates the intent of S.B. 1069 and offers the following comments for the Committee's consideration.

S.B. 1069 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;
- 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;
- 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;
- Makes the credit available for taxable years beginning after December 31, 2018, and ending before January 1, 2022;
- Adds a new section to chapter 263, HRS, making it unlawful to operate a commercial flight of a tour helicopter within one mile of any residential neighborhood during certain nighttime and early morning hours; and
- Effective upon approval and applies to taxable years beginning after December 31, 2018.

First, the Department notes that there is no restriction on the number of systems that may be installed on a single helicopter and qualify for the credit. The Department suggests limiting the credit to one per helicopter, as the maximum sound level of the helicopter is determined by evaluating the whole aircraft, not its composite parts. This clarification will minimize taxpayer confusion, prevent improper claims, and avoid unexpected losses in revenue.

Second, the Department notes that although "helicopter noise canceling technology system" is defined, the measure does not specify the level of decibels to which the maximum sound of noise emitted from the helicopter must be reduced to qualify for the credit. Even if this measure were amended to state an exact required sound level, the Department does not have the subject-matter expertise to validate a taxpayer's assertion that their system meets the necessary decibel threshold to qualify. Thus, the Department suggests that the Committee insert language requiring taxpayers to furnish the Department with certification from a qualified inspector or similar source that the installed system truly does meet its noise reducing requirements.

Finally, the Department notes that this new credit would be available for taxable years beginning after December 31, 2018. The Department respectfully requests that the applicable date be postponed until December 31, 2019, to allow time for the Department to make the necessary form, instruction, and computer system changes.

Thank you for the opportunity to provide comments.



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

ON THE FOLLOWING MEASURE:

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

BEFORE THE:

SENATE COMMITTEE ON WAYS AND MEANS

DATE: Wednesday, February 6, 2019 **TIME:** 10:00 a.m.

LOCATION: State Capitol, Room 211

TESTIFIER(S): Clare E. Connors, Attorney General, or
Michael Q.Y. Lau, Deputy Attorney General

Chair Dela Cruz 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.

The purpose of this bill is to establish a tax credit for taxpayers who install a helicopter noise canceling technology system. It also prohibits commercial flights of tour helicopters within one mile of residential neighborhoods at certain times.

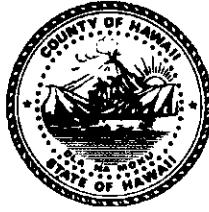
The bill as drafted is subject to a preemption challenge with respect to flight prohibition. Congress, by its enactment of the Federal Aviation Act of 1958, as amended by the Noise Control Act of 1972, preempted state and local control over aircraft noise. *City of Burbank v. Lockheed Air Terminal, Inc.*, 411 U.S. 624, 628-29 (1973). The power to regulate an aircraft's flight paths, hours, and altitudes resides exclusively with the Federal Aviation Administration. *Skysign International Inc. v. City and County of Honolulu*, 276 F.3d 1109, 1117 (9th Cir. 2002). "Aircraft" means "any contrivance invented, used, or designed to navigate, or fly in, the air." 49 United States Code section 40102(a)(6). This definition includes tour helicopters.

Section 2 on page 3, lines 4-12, would make it unlawful for any person to operate a commercial tour helicopter within one mile of any residential neighborhood between the hours of 6:00 p.m. and 8:00 a.m. Monday through Saturday, or between the hours of 6:00 p.m. and 9:00 a.m. on Sundays or holidays.

The wording in section 2 falls squarely within the type of aircraft regulation that the federal government has preempted. Accordingly, we respectfully suggest that section 2 on page 3, lines 4-12, be deleted.

Thank you for the opportunity to comment on this bill.

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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February 4, 2019

Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair
COMMITTEE ON WAYS AND MEANS
Hawai'i State Legislature

Dear Senators Dela Cruz and Keith-Agaran, and Committee members:

RE: SB 1069, RELATING TO REDUCTION OF NOISE FROM HELICOPTER OPERATIONS

SB 1069 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 will defer to the experts to suggest what the appropriate decibel level should be to qualify for such a credit, and how much the credit should be. But I would ask this Committee to be as stringent as may be reasonable. In return 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.

Sincerely,

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

INTRODUCED BY: L. THIELEN

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.

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 263, HRS, to make it unlawful for any person to operate a commercial flight of a tour helicopter within one mile of any residential neighborhood between the hours of 6:00 p.m. and 8:00 a.m. Monday through Saturday, or between the hours of 6:00 p.m. and 9:00 a.m. on Sundays or holidays.

EFFECTIVE DATE: Taxable years beginning after December 31, 2018.

STAFF COMMENTS: The Foundation's comments will be limited to the tax credit.

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.

Digested 2/3/2019

SB-1069

Submitted on: 2/2/2019 8:00:41 AM

Testimony for WAM on 2/6/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
LESLIE BALTZAR	Individual	Support	No

Comments:

I support the imposition of restrictions on commercial tour helicopter operations

SB-1069

Submitted on: 2/2/2019 9:11:00 AM

Testimony for WAM on 2/6/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Ralph Bishop	Individual	Support	No

Comments:

I am whoeheartedly in favor of restrictions on commercial helicopter activity. The activities of commercial helicopter operators is out of control and has a daily negative impact on quality of life of Hawai'i residents. The low flight, loud noise, and repeated incursions into neighborhoods gets worse and worse day after day and is unacceptable. My support for SB1069 also strongly encourages modifications to the existing draft to go even further than now proposed. Proposed hours of operation should be curtailed even further - excluding operations completely on weekends when families are enjoying activities in their homes together. Also, there needs to be penalties for violation of these restrictions. Restricting and making an activity unlawful is fine, but without penalty the question is "Who Cares?" Suggest a tiered system of fines leading to revocation of commercial business licenses for continued violation (in excess of 3 annually).

SB-1069

Submitted on: 2/2/2019 9:47:28 AM

Testimony for WAM on 2/6/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Stephen Canham	Individual	Support	No

Comments:

I support the imposition of noise/flight restrictions on commercial tour helicopter operations but I suggest that the bill needs teeth--the possibility of fines or of misdemeanor citations (or whatever) for repeat offenders/scofflaws. Thank you.

SB-1069

Submitted on: 2/2/2019 11:54:40 AM

Testimony for WAM on 2/6/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Joy Loudermelt	Individual	Support	No

Comments:

Noisy, lowflying, helicopters are a common nuisance in my lower Makiki/upper Kakaao neighborhood. I support this bill.

**SENATOR DONOVAN M. DELA CRUZ, CHAIR
SENATE COMMITTEE ON WAYS AND MEANS**

SB 1069 – Relating to Reduction of Noise from Helicopter Operations

Wednesday, February 6, 2019 – 10:00 a.m., State Capitol Conference Room 211

Aloha Chair Dela Cruz, and members of the Committee:

My name is Lasha-Lynn Salbosa. I was born in Hawai'i, spent my formative years in Wai'anae, and am now a resident of Hawai'i Kai. I am a member of the Hawai'i Kai Neighborhood Board, representing Subdistrict #7, Kalama Valley and Ka Iwi.

I am testifying in **SUPPORT** of Senate Bill 1069, which would provide a helicopter noise canceling technology system tax credit to qualified taxpayers that voluntarily install equipment to reduce the amount of noise emitted from their helicopter. Additionally, SB 1069 would make it unlawful for tour helicopters to operate a commercial flight within one mile of any residential neighborhood between the hours of 6:00 p.m. and 8:00 a.m. Monday through Saturday, or between the hours of 6:00 p.m. and 9:00 a.m. on Sundays or holidays.

I live near Kohelepelepe (Koko Crater) and the number of tour helicopters flying overhead early in the mornings, at all hours during weekdays, weekends, and holidays is increasing considerably and effecting the quality of life of many East O'ahu residents. I have many neighbors that speak to me regularly because they are frustrated with the rise in commercial tour helicopter operations. While I recognize that tourism in Hawai'i is important to our economy, it is of greater importance that our elected officials protect and maintain Hawai'i's quality of life and its natural and cultural resources.

Please act now and pass SB 1069.

Respectfully yours,



Lasha-Lynn H. Salbosa
Hawai'i Kai Neighborhood Board No. 1, Subdistrict #7

SB-1069

Submitted on: 2/3/2019 11:01:34 AM

Testimony for WAM on 2/6/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jeanne Herbert	Individual	Support	No

Comments:

SB1069 begins to address the issue of helicopter noise in residential neighborhoods. I live near Kapiolani Park and the constant buzz of tour helicopters has become incessant and disruptive. Today, Sunday morning, there were 3 helicopters and one small aircraft buzzing past my building at 10:00 am and from that time on there has been constant helicopter traffic just off of my apartment building. We can barely hear ourselves talk and it is impossible to have an afternoon nap. While reducing noise with devices and reducing the hours allowed for helicopters, this does not fully address the issue of helicopter noise during the daylight hours, which is when most of this activity occurs. I would like to see this bill pass, but we need more legislation around this subject. This started about two years ago when the flight paths changed and it has seriously added to noise pollution in our neighborhood. I support the imposition of restrictions on commercial tour helicopter operations and recommend that there be penalties associated with violations - there presently are no penalties outlined in the draft bill. Local residents deserve a good quality of life and the noise pollution caused by tour helicopters traversing my neighborhood is adversely affecting all of us. With the increase in number of visitors to our islands, when are we going to take a stand against adverse consequences of noise pollution created by helicopters?

SB-1069

Submitted on: 2/4/2019 12:42:09 PM

Testimony for WAM on 2/6/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
John Poole	Individual	Support	No

Comments:

Aloha,

I support this bill for restrictions on commercial helicopter tour operators ! Living in Aikahi Park, we've been bothered by noise from low-flying helicopters for years and, would love to see their aggravating noise lessened as much as possible. Please impose fines on those who don't adhere to the rules you develop so that the new law will be taken seriously by these companies.

Mahalo,

John and, Bernice Poole

SB-1069

Submitted on: 2/4/2019 4:29:45 PM

Testimony for WAM on 2/6/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Sasha Hedona	Individual	Support	No

Comments:

I support the imposition of restrictions on commercial tour helicopter operations and would prefer the bill go a lot farther in restricting tour aircraft from flying directly over residential areas of East Oahu period. They are presenting coming over my house located at the beginning of Hawaii Kai across the street from Moanalua Bay every 8-10 minutes from 8:30-5:00 most days except in inclement weather. It is awful and ruining the peaceful and quiet enjoyment of our property. We cannot be in our yard to dine , play with our dog or children without having a loud , annoying helicopter or single prop tour aircraft buzzing overhead every 8- 10 minutes. It's unacceptable. I fully support and recommend that there be penalties associated with violations - there presently are no penalties outlined in the draft bill. I would like to see them restricted to one mile out over the ocean and not permitted to fly over residential homes.

SB-1069

Submitted on: 2/5/2019 5:27:04 AM

Testimony for WAM on 2/6/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
philip browning	Individual	Support	No

Comments:

I AM A HOME OWNER LIVING AT THE ENTRANCE OF KALAMA VALLEY. THE HELICOPTER TRAFFIC HAS BEEN DRAMATICALLY INCREASED . THESE TOUR HELICOPTERS FLY LOW AND DIRECTLY OVER OUR HOMES WHICH HAS HAD A SIGNIFICANT NEGATIVE IMPACT OVER THE QUALITY OF OUR LIVES. I AM WRITING IN SUPPORT OF THE CURRENT BILL SB 1069, BUT IN ADDITION TO THE BILLS REQUEST I WOULD INCLUDE , THE TOUR HELICOPTERS AVOID RESIDENTIAL AREAS TROUGHOUT THE DAY, OR AT LEAST BE REQUIRED TO FLY ALONG THE COAST LINE AWAY FROM RESIDENTIAL AREAS . THE NUMBER OF HELICOPTERS ARE ONLY GOING TO INCREASE IT SEEMS , AND YOU IN THE LEGISTURE ARE THE ONLY PEOPLE WE AS HOME OWNERS CAN TURN TO FOR HELP

THANK YOU

SB-1069

Submitted on: 2/5/2019 5:45:55 AM

Testimony for WAM on 2/6/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Elisabeth Browning	Individual	Support	No

Comments:

Dear Committee Member,

I am writing in support of Senate Bill 1069. I am a resident of Hawaii Kai and have helicopters flying over my home approximately every 12 - 15 minutes during daylight hours. I am requesting that these tour helicopters limit their tours and fly away from residential areas. They could follow the coastline, but choose to save on gas and time, by flying over homes. We moved to Hawaii Kai to escape the noise of the city, but now find our lives disrupted by the constant noise of tour helicopters. I am hoping you can help resolve this issue.

Sincerely,

Elisabeth Browning

SB-1069

Submitted on: 2/5/2019 8:23:11 AM

Testimony for WAM on 2/6/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Bob Kern	Individual	Support	No

Comments:

Aloha Senator Dela Cruz and Members of the Ways and Means Committee

I support SB 1069 that offers a tax credit for installing helicopter noise cancelling technology and restricts the hours during which flights may be conducted but given the serious health problems noise can cause, the bill does not go far enough to protect homeowners who are disturbed throughout the day, every day.

1. There should be a *requirement* that a noise cancelling system be installed for helicopters being used for commercial activities over or near residential areas. A tax credit is an incentive but if a company chooses not to avail themselves of the credit, there is no benefit to citizens on the ground.
2. The current bill contains no penalties for flying outside of the prescribed hours. Companies fly the routes they do to save money in spite of discomfort to residents below. The only incentive for obeying the rules is fines.

Thank you for considering my testimony.

Respectfully Submitted,

Bob Kern

1615 Wilder Avenue #601

Honolulu, Hawaii 96822

943 9241

SB-1069

Submitted on: 2/5/2019 9:34:38 AM

Testimony for WAM on 2/6/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
John White	Individual	Support	No

Comments:

I support and applaud efforts mitigating helicopter noise which has increased recently. Sometimes the noise is so loud, I need to pause on phone conversations until the offending aircraft passes. A couple of times, the party on the other-end of the line asked me if that is a gardener working. In the short time, while writing this testimony four helicopters have flown overhead at various, but noticeable, noise levels.

At least four neighborhood boards in East Oahu have passed resolutions or letters of support in reducing aircraft noise; and I understand this is an issue on at least one of the outer islands as well.

In my nearby neighborhoods, I posted on social media concerns about aircraft noise and received over 42 replies from at least twelve different neighbors mostly complaining about aircraft noise (mostly helicopters).

LATE

SB-1069

Submitted on: 2/5/2019 10:01:00 AM

Testimony for WAM on 2/6/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Li Ann Taba	Individual	Support	No

Comments:

Waipio Gentry has been bombarded by air traffic noise! I personally have observed various helicopters and light aircraft. Even w/ windows closed and music on, the noise is loud and continuous from early (before 8 am) till

late. There are times the aircraft are so low, I can hear the beating of the propellers. My impulse was to duck, so, no, I didn't run outside to check. Horrors! Visions of crashes in my neighborhood!

Please stricter laws please. Moving is not out of the question for me! Thanks.

LATE

SB-1069

Submitted on: 2/5/2019 1:44:13 PM

Testimony for WAM on 2/6/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Joy	Individual	Support	No

Comments:

I totally support SB1069.

The sight-seeing helicopter traffic over my residential neighborhood has steadily increased over the past 2 to 3 years. The sound of helicopters droning over my home has been maddening. I can no longer enjoy peace and quiet in my back yard. I can hear these helicopters approaching from miles away. Is this what we want for our island paradise?

Someone is making a lot of money offering air tours over Oahu. All at my expense.

This legislation does not go far enough. Tour helicopters should be banned from flying near residential neighborhoods 24/7, not just overnight. Many people work varying shifts and must sleep during the day. Also, these tour helicopters are flying much too low. FAA regulations require that they remain 1,500 feet above ground level, yet I have seen many helicopters flying as low as 300 to 500 feet through my neighborhood. The State of Hawaii needs to demand that the FAA enforce our minimum altitude regulations. I have been in contact with FAA agents to report repeated minimum altitude violations and nothing changes. Sadly, it seems the only way to get the FAA to do its job is to file lawsuits.

Thank you this opportunity to tell my story.



LATE

February 5, 2019

WRITTEN TESTIMONY: Paradise Helicopters

MEASURE: SB1064 Relating to the Reduction of Noise from Helicopter Operations

POSITION: Oppose

It is the position of Paradise Helicopters, the leading locally owned helicopter-tour company in Hawaii, that SB1064, Section 2. Chapter 263, Hawaii Revised Statutes, cannot be amended by adding a new section as proposed:

"§263- Tour helicopters; restrictions on commercial flights. It is unlawful for any person to operate a commercial flight of a tour helicopter within one mile of any residential neighborhood between the hours of 6:00 p.m. and 8:00 a.m. Monday through Saturday, or between the hours of 6:00 p.m. and 9:00 a.m. on Sundays or holidays."

The Federal Aviation Administration (FAA) is the only entity with authority to govern U.S. airspace. According to the FAA:

"Congress has provided the FAA with exclusive authority to regulate aviation safety, the efficiency of the navigable airspace, and air traffic control, among other things. State and local governments are not permitted to regulate any type of aircraft operations, such as flight paths or altitudes, or the navigable airspace. ... Cities and municipalities are not permitted to have their own rules or regulations governing the operation of aircraft."

Paradise Helicopters and other members of the nonprofit Hawaii Helicopter Association (HHA), operate under the nation's most stringent aviation regulations. In addition, we have voluntarily implemented internal Fly Neighborly guidelines to help ensure safe and responsible operations and community stewardship. We also actively work with local, state, and federal legislators, regulators, community members and other stakeholders to encourage an open and ongoing dialogue regarding air-tour operations.

This proposed legislation is an overreach of State legislative authority with regard to aviation operations, and would impede safe operations and transit to and from airports, many of which are within 1 mile of residential neighborhoods.

We respectfully submit this testimony in opposition to SB1064, Section 2. Chapter 263, Hawaii Revised Statutes, and will continue to work with legislators through meetings, FAA community discussions and our involvement in HHA to ensure safe and responsible operations.

Submitted on behalf of Paradise Helicopters - Kailua-Kona, Hawaii



Activities & Attractions Association of Hawaii
PO Box 598, Makawao, Hawaii 96768
(808)871-7947 Main (808)877-3104 Fax



Testimony to the
COMMITTEE ON WAYS AND MEANS
Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair

Wednesday, February 6, 2019, 10:00 am
Conference Room 211

RE: Opposition to SB1069
RELATING TO REDUCTION OF NOISE FROM HELICOPTER OPERATIONS

Aloha Chair Senator Dela Cruz and Vice Chair Senator Agaran along with members the committee,

Mahalo for this opportunity to testify, my name is Toni Marie Davis. For the last 20 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.

This Bill has two flaws which challenge its ability to be legislated:

- Jurisdiction of Air Space is Federal
- 'quiet technology' is not quantitatively defined, ambiguous

SB656 and HB421 HD1, also address this tax exemption with requirements of quiet technology, without the flight restrictions. ***Please oppose this Bill and allow the businesses and legislature to work on win-win-win solutions for the residents, commercial operators and the state with other Bills already moving forward.***

Thank you again for the opportunity to testify.

Sincerely,

Toni Marie Davis
Executive Director



LATE

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www.rotor.org

Dedicated to the Advancement of the International Helicopter Community

February 5, 2019

To: Chair Donovan M. Dela Cruz
Vice Chair Gilbert S.C. Keith-Agaran
Senate Committee on Ways and Means

Subject: **Measure:** SB 1069
Hearing Date: February 6, 2019
Time: 10:00 a.m.
Location: Conference Room 211, 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. Prohibits commercial flights of tour helicopters within one mile of a residential neighborhood between 6 p.m. and 8 a.m. Monday through Saturday, or between 6 p.m. and 9 a.m. on Sundays and holidays.

HELICOPTER ASSOCIATION INTERNATIONAL'S (HAI) POSITION: OPPOSED

Helicopter Association International (HAI) opposes SB 1069 as introduced. SB 1069 provides a tax credit for taxpayers that install helicopter noise canceling technology. 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" and the bill does not define the maximum dBA sound level. HAI supports implementation of available quiet technology that lessens the impact of noise. However, no technology currently exists to cancel noise. Additionally, 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.

SB 1069 also prohibits commercial flights of tour helicopters within one mile of a residential neighborhood between 6 p.m. and 8 a.m. Monday through Saturday, or between 6 p.m. and 9 a.m. on Sundays and holidays. This proposed language is in violation of federal preemption.

49 U.S.C. §§ 40103(a)(1) states: "The United States government has exclusive sovereignty over the airspace of the United States." Based on this, the Federal Aviation Administration (FAA) on July 20, 2018 released the following statement regarding federal preemption:

Congress has provided the FAA with exclusive authority to regulate aviation safety, the efficiency of the navigable airspace, and air traffic control, among other things. State and local governments are not permitted to regulate any type of aircraft operations, such as flight paths or altitudes, or the navigable airspace.

However, these powers are not the same as regulation of aircraft landing sites, which involves local control of land and zoning. Laws traditionally related to state and local police power – including land use, zoning, privacy, and law enforcement operations – generally are not subject to federal regulation.

Cities and municipalities are not permitted to have their own rules or regulations governing the operation of aircraft.

However, as indicated, they may generally determine the location of aircraft landing sites through their land use powers.

SB 1069 would allow state government to regulate aircraft operations, including flight paths and altitudes. Such authority is exclusively granted to the FAA. The language of this bill seeks to provide federal authority to the state which is not permitted. As such, HAI strongly opposed SB 1069.

HAI appreciates the opportunity to provide comment on SB 1069 and seeks to serve as a resource to the Hawaii legislature on issues pertaining to the helicopter industry.

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.