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# A BILL FOR AN ACT

RELATING TO TAXATION.

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

1           SECTION 1. The legislature finds that Act 247, Session  
2 Laws of Hawaii 2005, established the county surcharge on state  
3 tax to provide an initial funding source for certain county  
4 transportation projects. Subsequently, Act 48, Session Laws of  
5 Hawaii 2023, amended the county surcharge on state tax to allow  
6 the funding of housing infrastructure. The county surcharge on  
7 state tax is scheduled to be repealed on December 31, 2030. The  
8 legislature notes that the counties will have six years to find  
9 alternative revenue sources to support programs that are  
10 currently funded by the county surcharge on state tax.

11           The purpose of this Act is to, upon the repeal of the  
12 county surcharge on state tax, establish a successor surcharge  
13 on the general excise and use taxes to provide:

- 14           (1) Funding for statewide universal preschool;  
15           (2) Supplemental funding to the department of education  
16           for K-12 school purposes; and



1 (3) Funding for the provision of social services in the  
2 State.

3 SECTION 2. Section 237-8.6, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "~~§237-8.6 [County surcharge]~~ Surcharge on [state] general  
6 excise tax; administration. (a) [~~The county]~~ Beginning  
7 January 1, 2031, a surcharge on [state tax, upon the adoption of  
8 county ordinances and in accordance with the requirements of  
9 section 46-16.8,] the taxes imposed under this chapter shall be  
10 levied, assessed, and collected as provided in this section on  
11 all gross proceeds and gross income taxable under this chapter.  
12 [~~No county shall set the]~~ The surcharge [~~on state tax at a]~~ rate  
13 [~~greater than]~~ shall be equal to one-half per cent of all gross  
14 proceeds and gross income taxable under this chapter. All  
15 provisions of this chapter shall apply to the [~~county]~~ surcharge  
16 [~~on state tax]~~. With respect to the surcharge, the director of  
17 taxation shall have all the rights and powers provided under  
18 this chapter. In addition, the director of taxation shall have  
19 the exclusive rights and power to determine the county or  
20 counties in which a person is engaged in business and, in the  
21 case of a person engaged in business in more than one county,



1 the director shall determine, through apportionment or other  
2 means, that portion of the surcharge on state tax attributable  
3 to business conducted in each county.

4 ~~[(b) Each county surcharge on state tax that may be  
5 adopted, extended, or amended pursuant to section 46-16.8 shall  
6 be levied beginning in a taxable year after the adoption of the  
7 relevant county ordinance, provided that no surcharge on state  
8 tax may be levied.]~~

9 ~~(1) Before:~~

10 ~~(A) January 1, 2007, if the county surcharge on state  
11 tax was established by an ordinance adopted  
12 before December 31, 2005;~~

13 ~~(B) January 1, 2019, if the county surcharge on state  
14 tax was established by the adoption of an  
15 ordinance after June 30, 2015, but before  
16 June 30, 2018;~~

17 ~~(C) January 1, 2020, if the county surcharge on state  
18 tax was established by the adoption of an  
19 ordinance on or after June 30, 2018, but before  
20 March 31, 2019;~~



1           ~~(D) January 1, 2024, if the county surcharge on state~~  
 2           ~~tax was established by the adoption of an~~  
 3           ~~ordinance on or after March 31, 2019, but before~~  
 4           ~~August 1, 2023; or~~

5           ~~(E) January 1, 2025, if the county surcharge on state~~  
 6           ~~tax was established by the adoption of an~~  
 7           ~~ordinance on or after August 1, 2023, but before~~  
 8           ~~December 31, 2023; and~~

9           ~~(2) After December 31, 2030.~~

10          ~~(e)~~ (b) The [county] surcharge on [state] general excise  
 11 tax[, ~~if adopted,~~] shall be imposed on the gross proceeds or  
 12 gross income of all written contracts that require the passing  
 13 on of the taxes imposed under this chapter; provided that if the  
 14 gross proceeds or gross income are received as payments  
 15 beginning in the taxable year in which the taxes become  
 16 effective, on contracts entered into before June 30 of the year  
 17 prior to the taxable year in which the taxes become effective,  
 18 and the written contracts do not provide for the passing on of  
 19 increased rates of taxes, the [county] surcharge [~~on state tax~~]  
 20 shall not be imposed on the gross proceeds or gross income  
 21 covered under the written contracts. The [county] surcharge [~~on~~



1 ~~state tax~~] shall be imposed on the gross proceeds or gross  
2 income from all contracts entered into on or after June 30 of  
3 the year prior to the taxable year in which the taxes become  
4 effective, regardless of whether the contract allows for the  
5 passing on of any tax or any tax increases.

6 ~~[(d) No county]~~ (c) The surcharge on [state] general  
7 excise tax shall [be established on] not apply to any:

8 (1) Gross income or gross proceeds taxable under this  
9 chapter at the one-half per cent tax rate;

10 (2) Gross income or gross proceeds taxable under this  
11 chapter at the 0.15 per cent tax rate; or

12 (3) Transactions, amounts, persons, gross income, or gross  
13 proceeds exempt from tax under this chapter.

14 ~~[(e)]~~ (d) The director of taxation shall revise the  
15 general excise tax forms to provide for the clear and separate  
16 designation of the imposition and payment of the [county]  
17 surcharge on [state] general excise tax.

18 ~~[(f)]~~ (e) The taxpayer shall designate the taxation  
19 district to which the [county] surcharge on [state] general  
20 excise tax is assigned in accordance with rules adopted by the  
21 director of taxation under chapter 91. The taxpayer shall file



1 a schedule with the taxpayer's periodic and annual general  
2 excise tax returns summarizing the amount of taxes assigned to  
3 each taxation district.

4 ~~[(g)]~~ (f) The penalties provided by section 231-39 for  
5 failure to file a tax return shall be imposed on the amount of  
6 surcharge due on the return being filed for the failure to file  
7 the schedule required to accompany the return. In addition,  
8 there shall be added to the tax an amount equal to ten per cent  
9 of the amount of the surcharge and tax due on the return being  
10 filed for the failure to file the schedule or the failure to  
11 correctly report the assignment of the general excise tax by  
12 taxation district on the schedule required under this  
13 subsection.

14 ~~[(h)]~~ (g) All taxpayers who file on a fiscal year basis  
15 whose fiscal year ends after December 31 of the year prior to  
16 the taxable year in which the taxes become effective, shall file  
17 a short period annual return for the period preceding January 1  
18 of the taxable year in which the taxes become effective. Each  
19 fiscal year taxpayer shall also file a short period annual  
20 return for the period starting on January 1 of the taxable year



1 in which the taxes become effective, and ending before January 1  
2 of the following year."

3 SECTION 3. Section 238-2.6, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "**§238-2.6** ~~[County surcharge]~~ Surcharge on [state] use tax;  
6 **administration.** (a) ~~[The county]~~ Beginning January 1, 2031, a  
7 surcharge on [state tax, upon the adoption of a county ordinance  
8 and in accordance with the requirements of section 46-16.8,] the  
9 taxes imposed under this chapter shall be levied, assessed, and  
10 collected as provided in this section on the value of property  
11 and services taxable under this chapter. ~~[No county shall set~~  
12 ~~the]~~ The surcharge [on state tax at a] rate [greater than] shall  
13 be equal to one-half per cent of the value of property taxable  
14 under this chapter. All provisions of this chapter shall apply  
15 to the ~~[county]~~ surcharge ~~[on state tax]~~. With respect to the  
16 surcharge, the director shall have all the rights and powers  
17 provided under this chapter. In addition, the director of  
18 taxation shall have the exclusive rights and power to determine  
19 the county or counties in which a person imports or purchases  
20 property and, in the case of a person importing or purchasing  
21 property in more than one county, the director shall determine,



1 through apportionment or other means, that portion of the  
2 surcharge [~~on state tax~~] attributable to the importation or  
3 purchase in each county.

4 ~~[(b) Each county surcharge on state tax that may be~~  
5 ~~adopted, extended, or amended shall be levied beginning in a~~  
6 ~~taxable year after the adoption of the relevant county~~  
7 ~~ordinance; provided that no surcharge on state tax may be~~  
8 ~~levied.~~

9 ~~(1) Before:~~

10 ~~(A) January 1, 2007, if the county surcharge on state~~  
11 ~~tax was established by an ordinance adopted~~  
12 ~~before December 31, 2005;~~

13 ~~(B) January 1, 2019, if the county surcharge on state~~  
14 ~~tax was established by the adoption of an~~  
15 ~~ordinance after June 30, 2015, but before~~  
16 ~~June 30, 2018;~~

17 ~~(C) January 1, 2020, if the county surcharge on state~~  
18 ~~tax was established by the adoption of an~~  
19 ~~ordinance on or after June 30, 2018, but before~~  
20 ~~March 31, 2019;~~





1           ~~(D) January 1, 2024, if the county surcharge on state~~  
2           ~~tax was established by the adoption of an~~  
3           ~~ordinance on or after March 31, 2019, but before~~  
4           ~~August 1, 2023, or~~

5           ~~(E) January 1, 2025, if the county surcharge on state~~  
6           ~~tax was established by the adoption of an~~  
7           ~~ordinance on or after August 1, 2023, but before~~  
8           ~~December 31, 2023, and~~

9           ~~(2) After December 31, 2030.~~

10          ~~(c) No county]~~   **(b)**   The surcharge on [state] use tax  
11 shall ~~[be established upon]~~ not apply to any use taxable under  
12 this chapter at the one-half per cent tax rate or upon any use  
13 that is not subject to taxation or that is exempt from taxation  
14 under this chapter.

15          ~~[(d)]~~   **(c)**   The director of taxation shall revise the use  
16 tax forms to provide for the clear and separate designation of  
17 the imposition and payment of the [county] surcharge on [state]  
18 use tax.

19          ~~[(e)]~~   **(d)**   The taxpayer shall designate the taxation  
20 district to which the [county] surcharge on [state] use tax is  
21 assigned in accordance with rules adopted by the director of



1 taxation under chapter 91. The taxpayer shall file a schedule  
2 with the taxpayer's periodic and annual use tax returns  
3 summarizing the amount of taxes assigned to each taxation  
4 district.

5 ~~[(f)]~~ (e) The penalties provided by section 231-39 for  
6 failure to file a tax return shall be imposed on the amount of  
7 surcharge due on the return being filed for the failure to file  
8 the schedule required to accompany the return. In addition,  
9 there shall be added to the tax an amount equal to ten per cent  
10 of the amount of the surcharge and tax due on the return being  
11 filed for the failure to file the schedule or the failure to  
12 correctly report the assignment of the use tax by taxation  
13 district on the schedule required under this subsection.

14 ~~[(g)]~~ (f) All taxpayers who file on a fiscal year basis  
15 whose fiscal year ends after December 31 of the year prior to  
16 the taxable year in which the taxes become effective, shall file  
17 a short period annual return for the period preceding January 1  
18 of the taxable year in which the taxes become effective. Each  
19 fiscal year taxpayer shall also file a short period annual  
20 return for the period starting on January 1 of the taxable year



1 in which the taxes become effective, and ending before January 1  
2 of the following year."

3 SECTION 4. Act 247, Session Laws of Hawaii 2005, as  
4 amended by Act 240, Session Laws of Hawaii 2015, as amended by  
5 Act 1, First Special Session Laws of Hawaii 2017, is amended by  
6 amending section 9 to read as follows:

7 "SECTION 9. This Act shall take effect upon its approval;  
8 provided that:

9 (1) If none of the counties of the State adopt an  
10 ordinance to levy a county surcharge on state tax by  
11 December 31, 2005, this Act shall be repealed and  
12 section 437D-8.4, Hawaii Revised Statutes, shall be  
13 reenacted in the form in which it read on the day  
14 prior to the effective date of this Act;

15 (2) If any county does not adopt an ordinance to levy a  
16 county surcharge on state tax by December 31, 2005, it  
17 shall be prohibited from adopting such an ordinance  
18 pursuant to this Act, unless otherwise authorized by  
19 the legislature through a separate legislative act;  
20 and



1 (3) If an ordinance to levy a county surcharge on state  
2 tax is adopted by December 31, 2005:

3 (A) The ordinance shall be repealed on December 31,  
4 2022; provided that the repeal of the ordinance  
5 shall not affect the validity or effect of an  
6 ordinance to extend a surcharge on state tax  
7 adopted pursuant to an act of the legislature;  
8 and

9 (B) [~~This~~] Sections 2, 5, and 6 of this Act shall be  
10 repealed on December 31, 2030, and section  
11 437D-8.4, Hawaii Revised Statutes, shall be  
12 reenacted in the form in which it read on the day  
13 prior to the effective date of this Act; provided  
14 that the amendments made to section 437D-8.4,  
15 Hawaii Revised Statutes, by Act 226, Session Laws  
16 of Hawaii 2008, as amended by Act 11, Session  
17 Laws of Hawaii 2009, and Act 110, Session Laws of  
18 Hawaii 2014, shall not be repealed."

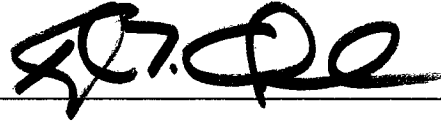
19 SECTION 5. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.



1 SECTION 6. This Act shall take effect on January 1, 2031.

2

INTRODUCED BY:

A handwritten signature in black ink, appearing to be "S. J. De" or similar, written over a horizontal line.

JAN 24 2024



# H.B. NO. 2781

**Report Title:**

Surcharge on General Excise Tax; Surcharge on Use Tax

**Description:**

Establishes a surcharge on general excise and use taxes.  
Effective 1/1/2031.

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

