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## A BILL FOR AN ACT

RELATING TO TRANSIENT ACCOMMODATIONS TAX.

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

1           SECTION 1. The legislature finds that the global  
2 respiratory disease pandemic named "coronavirus disease 2019",  
3 or COVID-19, has deeply impacted Hawaii's health and economy.  
4 The State and counties have implemented several measures to  
5 mitigate virus spread, such as stay-at-home orders, a mandatory  
6 fourteen-day quarantine for travelers, and the closing of all  
7 nonessential businesses. However, these virus mitigation  
8 efforts as well as the uncertainty of the COVID-19 pandemic have  
9 significantly affected Hawaii's tourism industry. As of  
10 September 2020, Hawaii has experienced a 71.7 per cent decrease  
11 in the number of visitors by air compared to 2019.

12           The legislature further finds that the significant decrease  
13 in visitors to Hawaii has resulted in an extreme loss in  
14 revenues from the State's transient accommodations tax which is  
15 imposed on gross rental proceeds from transient accommodations,  
16 such as hotel rooms; the fair market value of time share  
17 vacation units; and the gross receipts of transient



1 accommodations brokers, travel agents, and tour packagers  
2 arranging to furnish transient accommodations at noncommissioned  
3 negotiated contract rates. According to the department of  
4 business, economic development, and tourism, transient  
5 accommodations tax revenues decreased by \$103,300,000 or 68.6  
6 per cent in the second quarter of 2020 compared to the same  
7 quarter of 2019. Whereas, in the first half of 2020, transient  
8 accommodations tax revenues decreased by \$73,300,000 or 23.1 per  
9 cent compared to the previous year. As a result of decreased  
10 revenues, the legislature believes that the transient  
11 accommodation tax allocations should be adjusted.

12 The purpose of this Act is to repeal the allocation of  
13 excess transient accommodations tax revenues to the Turtle Bay  
14 conservation easement special fund, for the operation of a  
15 Hawaiian center and the museum of Hawaiian music and dance, to  
16 the counties, and to the special land and development fund.

17 SECTION 2. Section 87A-42, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "§87A-42 Other post-employment benefits trust. (a)  
20 Notwithstanding sections 87A-31 and 87A-31.5, the board, upon  
21 terms and conditions set by the board, shall establish and



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1 administer a separate trust fund for the purpose of receiving  
2 employer contributions that will prefund other post-employment  
3 health and other benefit plan costs for retirees and their  
4 beneficiaries. The separate trust fund shall meet the  
5 requirements of the Government Accounting Standards Board  
6 regarding other post-employment benefits trusts. The board  
7 shall establish and maintain a separate account for each public  
8 employer within the separate trust fund to accept and account  
9 for each public employer's contributions. Employer  
10 contributions to the separate trust fund shall be irrevocable,  
11 all assets of the fund shall be dedicated exclusively to  
12 providing health and other benefits to retirees and their  
13 beneficiaries, and assets of the fund shall not be subject to  
14 appropriation for any other purpose and shall not be subject to  
15 claims by creditors of the employers or the board or plan  
16 administrator. The board's powers under section 87A-24 shall  
17 also apply to the fund established pursuant to this section.

18 (b) Public employer contributions shall be paid into the  
19 fund in each fiscal year, and commencing with the 2018-2019  
20 fiscal year, the amount of the annual public employer



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1 contribution shall be equal to the amount of the annual required  
2 contribution, as determined by an actuary retained by the board.

3 (c) In any fiscal year subsequent to the 2017-2018 fiscal  
4 year in which the state public employer's contributions into the  
5 fund are less than the amount of the annual required  
6 contribution, the amount that represents the excess of the  
7 annual required contribution over the state public employer's  
8 contributions shall be deposited into the appropriate account of  
9 the separate trust fund from a portion of all general excise tax  
10 revenues collected by the department of taxation under section  
11 237-31.

12 If any general excise tax revenues are deposited into the  
13 separate trust fund in any fiscal year as a result of this  
14 subsection, the director of finance shall notify the legislature  
15 and governor whether the general fund expenditure ceiling for  
16 that fiscal year would have been exceeded if those revenues had  
17 been legislatively appropriated instead of deposited without  
18 appropriation into the trust fund. The notification shall be  
19 submitted within thirty days following the end of the applicable  
20 fiscal year.



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1       ~~[(d) In any fiscal year subsequent to the 2017-2018 fiscal~~  
2 ~~year in which a county public employer's contributions into the~~  
3 ~~fund are less than the amount of the annual required~~  
4 ~~contribution, the amount that represents the excess of the~~  
5 ~~annual required contribution over the county public employer's~~  
6 ~~contributions shall be deposited into the fund from a portion of~~  
7 ~~all transient accommodations tax revenues collected by the~~  
8 ~~department of taxation under section 237D-6.5(b)(4). The~~  
9 ~~director of finance shall deduct the amount necessary to meet~~  
10 ~~the county public employer's annual required contribution from~~  
11 ~~the revenues derived under section 237D-6.5(b)(4) and transfer~~  
12 ~~the amount to the board for deposit into the appropriate account~~  
13 ~~of the separate trust fund.]~~

14       ~~[(e)]~~ (d) In any fiscal year subsequent to fiscal year  
15 2017-2018 in which a public employer's contributions into the  
16 fund are less than the amount of the annual required  
17 contribution and the public employer is not entitled to  
18 transient accommodations tax revenues sufficient to satisfy the  
19 total amount of the annual required contribution, the public  
20 employer's contributions shall be deposited into the fund from  
21 portions of any other revenues collected on behalf of the public



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1 employer or held by the State. The director of finance shall  
2 deduct the amount necessary to meet the public employer's annual  
3 required contribution from any revenues collected on behalf of  
4 the public employer held by the State and transfer the amount to  
5 the board for deposit into the appropriate account of the  
6 separate trust fund.

7 ~~[(f)]~~ (e) For the purposes of this section, "annual  
8 required contribution" means a public employer's required  
9 contribution to the trust fund established in this section that  
10 is sufficient to cover:

11 (1) The normal cost, which is the cost of other post-  
12 employment benefits attributable to the current year  
13 of service; and

14 (2) An amortization payment, which is a catch-up payment  
15 for past service costs to fund the unfunded actuarial  
16 accrued liability over the next thirty years."

17 SECTION 3. Section 171-19, Hawaii Revised Statutes, is  
18 amended by amending subsection (a) to read as follows:

19 "(a) There is created in the department a special fund to  
20 be designated as the "special land and development fund".

21 Subject to the Hawaiian Homes Commission Act of 1920, as



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1 amended, and section 5(f) of the Admission Act of 1959, all  
2 proceeds of sale of public lands, including interest on deferred  
3 payments; all moneys collected under section 171-58 for mineral  
4 and water rights; all rents from leases, licenses, and permits  
5 derived from public lands; all moneys collected from lessees of  
6 public lands within industrial parks; all fees, fines, and other  
7 administrative charges collected under this chapter and chapter  
8 183C; a portion of the highway fuel tax collected under chapter  
9 243; all moneys collected by the department for the commercial  
10 use of public trails and trail accesses under the jurisdiction  
11 of the department; [~~transient accommodations tax revenues~~  
12 ~~collected pursuant to section 237D-6.5(b)(5),]~~ and private  
13 contributions for the management, maintenance, and development  
14 of trails and accesses shall be set apart in the fund and shall  
15 be used only as authorized by the legislature for the following  
16 purposes:

- 17 (1) To reimburse the general fund of the State for  
18 advances made that are required to be reimbursed from  
19 the proceeds derived from sales, leases, licenses, or  
20 permits of public lands;



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- 1           (2) For the planning, development, management, operations,  
2                    or maintenance of all lands and improvements under the  
3                    control and management of the board pursuant to title  
4                    12, including but not limited to permanent or  
5                    temporary staff positions who may be appointed without  
6                    regard to chapter 76; [~~provided that transient~~  
7                    ~~accommodations tax revenues allocated to the fund~~  
8                    ~~shall be expended as provided in section 237D-~~  
9                    ~~6.5(b)(5),]~~
- 10           (3) To repurchase any land, including improvements, in the  
11                    exercise by the board of any right of repurchase  
12                    specifically reserved in any patent, deed, lease, or  
13                    other documents or as provided by law;
- 14           (4) For the payment of all appraisal fees; provided that  
15                    all fees reimbursed to the board shall be deposited in  
16                    the fund;
- 17           (5) For the payment of publication notices as required  
18                    under this chapter; provided that all or a portion of  
19                    the expenditures may be charged to the purchaser or  
20                    lessee of public lands or any interest therein under  
21                    rules adopted by the board;



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- 1           (6) For the management, maintenance, and development of  
2           trails and trail accesses under the jurisdiction of  
3           the department;
- 4           (7) For the payment to private land developers who have  
5           contracted with the board for development of public  
6           lands under section 171-60;
- 7           (8) For the payment of debt service on revenue bonds  
8           issued by the department, and the establishment of  
9           debt service and other reserves deemed necessary by  
10          the board;
- 11          (9) To reimburse the general fund for debt service on  
12          general obligation bonds issued to finance  
13          departmental projects, where the bonds are designated  
14          to be reimbursed from the special land and development  
15          fund;
- 16          (10) For the protection, planning, management, and  
17          regulation of water resources under chapter 174C; and  
18          (11) For other purposes of this chapter."

19          SECTION 4. Section 171-171, Hawaii Revised Statutes, is  
20          amended by amending subsection (c) to read as follows:



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1           "(c) The reimbursable general obligation bonds issued to  
2 acquire the conservation easement and other real property  
3 interests shall be payable from [~~the transient accommodations~~  
4 ~~tax revenues allocated to the Turtle Bay conservation easement~~  
5 ~~special fund established by section 171-172 and from~~] moneys  
6 from the land conservation fund. The [~~transient accommodations~~  
7 ~~tax revenues and~~] moneys from the land conservation fund are and  
8 shall be deemed user taxes. The revenues allocated shall be  
9 deemed user taxes pursuant to chapter 39 for the undertaking."

10           SECTION 5. Section 171-172, Hawaii Revised Statutes, is  
11 amended by amending subsection (b) to read as follows:

12           "(b) [~~Transient accommodations tax revenues allocated to~~  
13 ~~the Turtle Bay conservation easement special fund pursuant to~~  
14 ~~section 237D-6.5 and moneys~~] Moneys from the land conservation  
15 fund shall be deposited into the special fund. All interest  
16 earned on the moneys in the special fund shall be credited to  
17 the special fund."

18           SECTION 6. Section 184-3.4, Hawaii Revised Statutes, is  
19 amended by amending subsection (a) to read as follows:



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1           "(a) There is established within the state treasury a fund  
2 to be known as the state parks special fund, into which shall be  
3 deposited[+]

4           ~~(1)~~ ~~All]~~ all proceeds collected by the state parks  
5 programs involving park user fees, any leases or  
6 concession agreements, the sale of any article  
7 purchased from the department to benefit the state  
8 parks programs, or any gifts or contributions;  
9 provided that proceeds derived from the operation of  
10 Iolani Palace shall be used to supplement its  
11 educational and interpretive programs [~~and~~

12 ~~(2) Transient accommodations tax revenues pursuant to~~  
13 ~~section 237D-6.5; provided that these moneys shall be~~  
14 ~~expended in response to a master plan developed in~~  
15 ~~coordination with the Hawaii tourism authority]."~~

16           SECTION 7. Section 198D-2, Hawaii Revised Statutes, is  
17 amended as follows:

18           1. By amending subsection (b) to read:

19           "(b) The trail and access program shall use funding for  
20 the management, maintenance, and development of trails and trail



1 accesses under the jurisdiction of the department from the  
2 following sources:

- 3 (1) A portion of the highway fuel taxes collected under
- 4 chapter 243;
- 5 (2) Federal government grants;
- 6 (3) Private contributions; and
- 7 (4) Fees, established pursuant to administrative rules and
- 8 charged by the department for the commercial and other
- 9 use of trails and trail accesses under the
- 10 jurisdiction of the department [~~7~~ and
- 11 ~~(5) Transient accommodations tax revenues pursuant to~~
- 12 ~~section 237D-6.5]."~~

13 2. By amending subsection (d) to read:

14 "(d) The moneys specified in subsection (b) (1), (3), and  
15 (4) [~~7~~ and ~~(5)~~] shall be deposited in the special land and  
16 development fund under section 171-19 for the management,  
17 maintenance, and development of trails and trail accesses under  
18 the jurisdiction of the department [~~7~~ provided that the moneys  
19 specified in subsection (b) (5) shall be expended for the  
20 management, maintenance, and development of trails and access



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1 ~~areas frequented by visitors in response to a master plan~~  
2 ~~developed in coordination with the Hawaii tourism authority]."~~

3 SECTION 8. Section 237D-6.5, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "§237D-6.5 Remittances; distribution to counties. (a)

6 All remittances of taxes imposed under this chapter shall be  
7 made by cash, bank drafts, cashier's check, money order, or  
8 certificate of deposit to the office of the taxation district to  
9 which the return was transmitted.

10 (b) Except for the revenues collected pursuant to section  
11 237D-2(e), revenues collected under this chapter shall be  
12 distributed in the following priority, with the excess revenues  
13 to be deposited into the general fund:

14 ~~[(1) \$1,500,000 shall be allocated to the Turtle Bay~~  
15 ~~conservation easement special fund beginning July 1,~~  
16 ~~2015, for the reimbursement to the state general fund~~  
17 ~~of debt service on reimbursable general obligation~~  
18 ~~bonds, including ongoing expenses related to the~~  
19 ~~issuance of the bonds, the proceeds of which were used~~  
20 ~~to acquire the conservation easement and other real~~  
21 ~~property interests in Turtle Bay, Oahu, for the~~



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1           ~~protection, preservation, and enhancement of natural~~  
2           ~~resources important to the State, until the bonds are~~  
3           ~~fully amortized,]~~

4           ~~[(2)]~~ (1)   \$16,500,000 shall be allocated to the convention  
5           center enterprise special fund established under  
6           section 201B-8; and

7           ~~[(3)]~~ (2)   \$79,000,000 shall be allocated to the tourism  
8           special fund established under section 201B-11;  
9           provided that:

10          ~~[(A)]~~   ~~Beginning on July 1, 2012, and ending on June 30,~~  
11                   ~~2015, \$2,000,000 shall be expended from the~~  
12                   ~~tourism special fund for development and~~  
13                   ~~implementation of initiatives to take advantage~~  
14                   ~~of expanded visa programs and increased travel~~  
15                   ~~opportunities for international visitors to~~  
16                   ~~Hawaii,~~

17          ~~[(B)]~~ (A)   Of the \$79,000,000 allocated~~[(+)]~~,

18                   ~~-(i) \$1,000,000 shall be allocated for the~~  
19                   ~~operation of a Hawaiian center and the~~  
20                   ~~museum of Hawaiian music and dance; and~~



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1           ~~(ii)]~~ 0.5 per cent of the \$79,000,000 shall be  
2   transferred to a sub-account in the tourism  
3   special fund to provide funding for a safety  
4   and security budget, in accordance with the  
5   Hawaii tourism strategic plan 2005-2015; and  
6       ~~[(C)]~~ (B) Of the revenues remaining in the tourism special  
7   fund after revenues have been deposited as  
8   provided in this paragraph and except for any sum  
9   authorized by the legislature for expenditure  
10    from revenues subject to this paragraph,  
11    beginning July 1, 2007, funds shall be deposited  
12    into the tourism emergency special fund,  
13    established in section 201B-10, in a manner  
14    sufficient to maintain a fund balance of  
15    \$5,000,000 in the tourism emergency special  
16    fund[~~;~~  
17       ~~(4)~~ ~~\$103,000,000 shall be allocated as follows: Kauai~~  
18    ~~county shall receive 14.5 per cent, Hawaii county~~  
19    ~~shall receive 18.6 per cent, city and county of~~  
20    ~~Honolulu shall receive 44.1 per cent, and Maui county~~  
21    ~~shall receive 22.8 per cent; provided that commencing~~



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1           ~~with fiscal year 2018-2019, a sum that represents the~~  
2           ~~difference between a county public employer's annual~~  
3           ~~required contribution for the separate trust fund~~  
4           ~~established under section 87A-42 and the amount of the~~  
5           ~~county public employer's contributions into that trust~~  
6           ~~fund shall be retained by the state director of~~  
7           ~~finance and deposited to the credit of the county~~  
8           ~~public employer's annual required contribution into~~  
9           ~~that trust fund in each fiscal year, as provided in~~  
10          ~~section 87A-42, if the respective county fails to~~  
11          ~~remit the total amount of the county's required annual~~  
12          ~~contributions, as required under section 87A-43; and~~  
13          ~~(5) \$3,000,000 shall be allocated to the special land and~~  
14          ~~development fund established under section 171-19;~~  
15          ~~provided that the allocation shall be expended in~~  
16          ~~accordance with the Hawaii tourism authority strategic~~  
17          ~~plan for:~~  
18          ~~(A) The protection, preservation, maintenance, and~~  
19                 ~~enhancement of natural resources, including~~  
20                 ~~beaches, important to the visitor industry;~~





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1 SECTION 10. This Act shall take effect on July 1, 2021.

2

INTRODUCED BY:



JAN 22 2021



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**Report Title:**

Transient Accommodations Tax; Repeal of Certain Allocations

**Description:**

Repeals the allocation of excess transient accommodations tax revenues to the Turtle Bay conservation easement special fund, for the operation of a Hawaiian center and the museum of Hawaiian music and dance, to the counties, and to the special land and development fund.

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

