

JAN 20 2023

A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 PART I

2 SECTION 1. Section 237-13, Hawaii Revised Statutes, is
3 amended to read as follows:

4 "§237-13 Imposition of tax. There is hereby levied and
5 shall be assessed and collected annually privilege taxes against
6 persons on account of their business and other activities in the
7 State measured by the application of rates against values of
8 products, gross proceeds of sales, or gross income, whichever is
9 specified, as follows:

10 (1) Tax on manufacturers.

11 (A) Upon every person engaging or continuing within
12 the State in the business of manufacturing,
13 including compounding, canning, preserving,
14 packing, printing, publishing, milling,
15 processing, refining, or preparing for sale,
16 profit, or commercial use, either directly or
17 through the activity of others, in whole or in



1 part, any article or articles, substance or
2 substances, commodity or commodities, the amount
3 of the tax to be equal to the value of the
4 articles, substances, or commodities,
5 manufactured, compounded, canned, preserved,
6 packed, printed, milled, processed, refined, or
7 prepared for sale, as shown by the gross proceeds
8 derived from the sale thereof by the manufacturer
9 or person compounding, preparing, or printing
10 them, multiplied by one-half of one per cent.

11 (B) The measure of the tax on manufacturers is the
12 value of the entire product for sale.

13 (2) Tax on business of selling tangible personal property;
14 producing.

15 (A) Upon every person engaging or continuing in the
16 business of selling any tangible personal
17 property whatsoever, there is likewise hereby
18 levied, and shall be assessed and collected, a
19 tax equivalent to [~~four~~] five per cent of the
20 gross proceeds of sales of the business; provided
21 that, in the case of a wholesaler, the tax shall



1 be equal to one-half of one per cent of the gross
2 proceeds of sales of the business; and provided
3 further that insofar as the sale of tangible
4 personal property is a wholesale sale under
5 section 237-4(a)(8), the tax shall be one-half of
6 one per cent of the gross proceeds. Upon every
7 person engaging or continuing within this State
8 in the business of a producer, the tax shall be
9 equal to one-half of one per cent of the gross
10 proceeds of sales of the business, or the value
11 of the products, for sale.

12 (B) Gross proceeds of sales of tangible property in
13 interstate and foreign commerce shall constitute
14 a part of the measure of the tax imposed on
15 persons in the business of selling tangible
16 personal property, to the extent, under the
17 conditions, and in accordance with the provisions
18 of the Constitution of the United States and the
19 Acts of the Congress of the United States which
20 may be now in force or may be hereafter adopted,
21 and whenever there occurs in the State an



1 activity to which, under the Constitution and
2 Acts of Congress, there may be attributed gross
3 proceeds of sales, the gross proceeds shall be so
4 attributed.

5 (C) No manufacturer or producer, engaged in such
6 business in the State and selling the
7 manufacturer's or producer's products for
8 delivery outside of the State (for example,
9 consigned to a mainland purchaser via common
10 carrier f.o.b. Honolulu), shall be required to
11 pay the tax imposed in this chapter for the
12 privilege of so selling the products, and the
13 value or gross proceeds of sales of the products
14 shall be included only in determining the measure
15 of the tax imposed upon the manufacturer or
16 producer.

17 (D) A manufacturer or producer, engaged in such
18 business in the State, shall pay the tax imposed
19 in this chapter for the privilege of selling its
20 products in the State, and the value or gross
21 proceeds of sales of the products, thus subjected



1 to tax, may be deducted insofar as duplicated as
2 to the same products by the measure of the tax
3 upon the manufacturer or producer for the
4 privilege of manufacturing or producing in the
5 State; provided that no producer of agricultural
6 products who sells the products to a purchaser
7 who will process the products outside the State
8 shall be required to pay the tax imposed in this
9 chapter for the privilege of producing or selling
10 those products.

11 (E) A taxpayer selling to a federal cost-plus
12 contractor may make the election provided for by
13 paragraph (3) (C), and in that case the tax shall
14 be computed pursuant to the election,
15 notwithstanding this paragraph or paragraph (1)
16 to the contrary.

17 (F) The department, by rule, may require that a
18 seller take from the purchaser of tangible
19 personal property a certificate, in a form
20 prescribed by the department, certifying that the
21 sale is a sale at wholesale; provided that:



- 1 (i) Any purchaser who furnishes a certificate
- 2 shall be obligated to pay to the seller,
- 3 upon demand, the amount of the additional
- 4 tax that is imposed upon the seller whenever
- 5 the sale in fact is not at wholesale; and
- 6 (ii) The absence of a certificate in itself shall
- 7 give rise to the presumption that the sale
- 8 is not at wholesale unless the sales of the
- 9 business are exclusively at wholesale.

10 (3) Tax upon contractors.

11 (A) Upon every person engaging or continuing within

12 the State in the business of contracting, the tax

13 shall be equal to [~~four~~] five per cent of the

14 gross income of the business.

15 (B) In computing the tax levied under this paragraph,

16 there shall be deducted from the gross income of

17 the taxpayer so much thereof as has been included

18 in the measure of the tax levied under

19 subparagraph (A), on another taxpayer who is a

20 contractor, as defined in section 237-6; provided

21 that any person claiming a deduction under this



1 paragraph shall be required to show in the
2 person's return the name and general excise
3 number of the person paying the tax on the amount
4 deducted by the person.

5 (C) In computing the tax levied under this paragraph
6 against any federal cost-plus contractor, there
7 shall be excluded from the gross income of the
8 contractor so much thereof as fulfills the
9 following requirements:

10 (i) The gross income exempted shall constitute
11 reimbursement of costs incurred for
12 materials, plant, or equipment purchased
13 from a taxpayer licensed under this chapter,
14 not exceeding the gross proceeds of sale of
15 the taxpayer on account of the transaction;
16 and

17 (ii) The taxpayer making the sale shall have
18 certified to the department that the
19 taxpayer is taxable with respect to the
20 gross proceeds of the sale, and that the
21 taxpayer elects to have the tax on gross



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1 income computed the same as upon a sale to
2 the state government.

3 (D) A person who, as a business or as a part of a
4 business in which the person is engaged, erects,
5 constructs, or improves any building or
6 structure, of any kind or description, or makes,
7 constructs, or improves any road, street,
8 sidewalk, sewer, or water system, or other
9 improvements on land held by the person (whether
10 held as a leasehold, fee simple, or otherwise),
11 upon the sale or other disposition of the land or
12 improvements, even if the work was not done
13 pursuant to a contract, shall be liable to the
14 same tax as if engaged in the business of
15 contracting, unless the person shows that at the
16 time the person was engaged in making the
17 improvements the person intended, and for the
18 period of at least one year after completion of
19 the building, structure, or other improvements
20 the person continued to intend to hold and not
21 sell or otherwise dispose of the land or



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1 improvements. The tax in respect of the
2 improvements shall be measured by the amount of
3 the proceeds of the sale or other disposition
4 that is attributable to the erection,
5 construction, or improvement of such building or
6 structure, or the making, constructing, or
7 improving of the road, street, sidewalk, sewer,
8 or water system, or other improvements. The
9 measure of tax in respect of the improvements
10 shall not exceed the amount which would have been
11 taxable had the work been performed by another,
12 subject as in other cases to the deductions
13 allowed by subparagraph (B). Upon the election
14 of the taxpayer, this paragraph may be applied
15 notwithstanding that the improvements were not
16 made by the taxpayer, or were not made as a
17 business or as a part of a business, or were made
18 with the intention of holding the same. However,
19 this paragraph shall not apply in respect of any
20 proceeds that constitute or are in the nature of
21 rent, which shall be taxable under paragraph (9);



1 provided that insofar as the business of renting
2 or leasing real property under a lease is taxed
3 under section 237-16.5, the tax shall be levied
4 by section 237-16.5.

5 (4) Tax upon theaters, amusements, radio broadcasting
6 stations, etc.

7 (A) Upon every person engaging or continuing within
8 the State in the business of operating a theater,
9 opera house, moving picture show, vaudeville,
10 amusement park, dance hall, skating rink, radio
11 broadcasting station, or any other place at which
12 amusements are offered to the public, the tax
13 shall be equal to [~~four~~] five per cent of the
14 gross income of the business, and in the case of
15 a sale of an amusement at wholesale under section
16 237-4(a)(13), the tax shall be one-half of one
17 per cent of the gross income.

18 (B) The department may require that the person
19 rendering an amusement at wholesale take from the
20 licensed seller a certificate, in a form



1 prescribed by the department, certifying that the
2 sale is a sale at wholesale; provided that:

3 (i) Any licensed seller who furnishes a
4 certificate shall be obligated to pay to the
5 person rendering the amusement, upon demand,
6 the amount of additional tax that is imposed
7 upon the seller whenever the sale is not at
8 wholesale; and

9 (ii) The absence of a certificate in itself shall
10 give rise to the presumption that the sale
11 is not at wholesale unless the person
12 rendering the sale is exclusively rendering
13 the amusement at wholesale.

14 (5) Tax upon sales representatives, etc. Upon every
15 person classified as a representative or purchasing
16 agent under section 237-1, engaging or continuing
17 within the State in the business of performing
18 services for another, other than as an employee, there
19 is likewise hereby levied and shall be assessed and
20 collected a tax equal to [~~four~~] five per cent of the



1 commissions and other compensation attributable to the
2 services so rendered by the person.

3 (6) Tax on service business.

4 (A) Upon every person engaging or continuing within
5 the State in any service business or calling
6 including professional services not otherwise
7 specifically taxed under this chapter, there is
8 likewise hereby levied and shall be assessed and
9 collected a tax equal to [~~four~~] five per cent of
10 the gross income of the business, and in the case
11 of a wholesaler under section 237-4(a)(10), the
12 tax shall be equal to one-half of one per cent of
13 the gross income of the business.

14 (B) The department may require that the person
15 rendering a service at wholesale take from the
16 licensed seller a certificate, in a form
17 prescribed by the department, certifying that the
18 sale is a sale at wholesale; provided that:

19 (i) Any licensed seller who furnishes a
20 certificate shall be obligated to pay to the
21 person rendering the service, upon demand,



1 the amount of additional tax that is imposed
2 upon the seller whenever the sale is not at
3 wholesale; and

4 (ii) The absence of a certificate in itself shall
5 give rise to the presumption that the sale
6 is not at wholesale unless the person
7 rendering the sale is exclusively rendering
8 services at wholesale.

9 (C) Where any person is engaged in the business of
10 selling interstate or foreign common carrier
11 telecommunication services within and without the
12 State, other than as a home service provider, the
13 tax shall be imposed on that portion of gross
14 income received by a person from service which is
15 originated or terminated in this State and is
16 charged to a telephone number, customer, or
17 account in this State notwithstanding any other
18 state law (except for the exemption under section
19 237-23(a)(1)) to the contrary. If, under the
20 Constitution and laws of the United States, the
21 entire gross income as determined under this



1 paragraph of a business selling interstate or
2 foreign common carrier telecommunication services
3 cannot be included in the measure of the tax, the
4 gross income shall be apportioned as provided in
5 section 237-21; provided that the apportionment
6 factor and formula shall be the same for all
7 persons providing those services in the State.

8 (D) Where any person is engaged in the business of a
9 home service provider, the tax shall be imposed
10 on the gross income received or derived from
11 providing interstate or foreign mobile
12 telecommunications services to a customer with a
13 place of primary use in this State when the
14 services originate in one state and terminate in
15 another state, territory, or foreign country;
16 provided that all charges for mobile
17 telecommunications services which are billed by
18 or for the home service provider are deemed to be
19 provided by the home service provider at the
20 customer's place of primary use, regardless of
21 where the mobile telecommunications originate,



1 terminate, or pass through; provided further that
2 the income from charges specifically derived from
3 interstate or foreign mobile telecommunications
4 services, as determined by books and records that
5 are kept in the regular course of business by the
6 home service provider in accordance with section
7 239-24, shall be apportioned under any
8 apportionment factor or formula adopted under
9 subparagraph (C). Gross income shall not
10 include:

11 (i) Gross receipts from mobile
12 telecommunications services provided to a
13 customer with a place of primary use outside
14 this State;

15 (ii) Gross receipts from mobile
16 telecommunications services that are subject
17 to the tax imposed by chapter 239;

18 (iii) Gross receipts from mobile
19 telecommunications services taxed under
20 section 237-13.8; and



1 (iv) Gross receipts of a home service provider
2 acting as a serving carrier providing mobile
3 telecommunications services to another home
4 service provider's customer.

5 For the purposes of this paragraph, "charges for
6 mobile telecommunications services", "customer",
7 "home service provider", "mobile
8 telecommunications services", "place of primary
9 use", and "serving carrier" have the same meaning
10 as in section 239-22.

11 (7) Tax on insurance producers. Upon every person engaged
12 as a licensed producer pursuant to chapter 431, there
13 is hereby levied and shall be assessed and collected a
14 tax equal to 0.15 per cent of the commissions due to
15 that activity.

16 (8) Tax on receipts of sugar benefit payments. Upon the
17 amounts received from the United States government by
18 any producer of sugar (or the producer's legal
19 representative or heirs), as defined under and by
20 virtue of the Sugar Act of 1948, as amended, or other
21 Acts of the Congress of the United States relating



1 thereto, there is hereby levied a tax of one-half of
2 one per cent of the gross amount received; provided
3 that the tax levied hereunder on any amount so
4 received and actually disbursed to another by a
5 producer in the form of a benefit payment shall be
6 paid by the person or persons to whom the amount is
7 actually disbursed, and the producer actually making a
8 benefit payment to another shall be entitled to claim
9 on the producer's return a deduction from the gross
10 amount taxable hereunder in the sum of the amount so
11 disbursed. The amounts taxed under this paragraph
12 shall not be taxable under any other paragraph,
13 subsection, or section of this chapter.

14 (9) Tax on other business. Upon every person engaging or
15 continuing within the State in any business, trade,
16 activity, occupation, or calling not included in the
17 preceding paragraphs or any other provisions of this
18 chapter, there is likewise hereby levied and shall be
19 assessed and collected, a tax equal to [~~four~~] five per
20 cent of the gross income thereof. In addition, the
21 rate prescribed by this paragraph shall apply to a



1 business taxable under one or more of the preceding
2 paragraphs or other provisions of this chapter, as to
3 any gross income thereof not taxed thereunder as gross
4 income or gross proceeds of sales or by taxing an
5 equivalent value of products, unless specifically
6 exempted."

7 SECTION 2. Section 237-15, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "§237-15 **Technicians.** When technicians supply dentists or
10 physicians with dentures, orthodontic devices, braces, and
11 similar items which have been prepared by the technician in
12 accordance with specifications furnished by the dentist or
13 physician, and such items are to be used by the dentist or
14 physician in the dentist's or physician's professional practice
15 for a particular patient who is to pay the dentist or physician
16 for the same as a part of the dentist's or physician's
17 professional services, the technician shall be taxed as though
18 the technician were a manufacturer selling a product to a
19 licensed retailer, rather than at the rate of [~~four~~] five per
20 cent which is generally applied to professions and services."



1 SECTION 3. Section 237-16.5, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending subsection (a) to read:

4 "(a) This section relates to the leasing of real property
5 by a lessor to a lessee. There is hereby levied, and shall be
6 assessed and collected annually, a privilege tax against persons
7 engaging or continuing within the State in the business of
8 leasing real property to another, equal to [~~four~~] five per cent
9 of the gross proceeds or gross income received or derived from
10 the leasing; provided that where real property is subleased by a
11 lessee to a sublessee, the lessee, as provided in this section,
12 shall be allowed a deduction from the amount of gross proceeds
13 or gross income received from its sublease of the real property.
14 The deduction shall be in the amount allowed under this section.

15 All deductions under this section and the name and general
16 excise tax number of the lessee's lessor shall be reported on
17 the general excise tax return. Any deduction allowed under this
18 section shall only be allowed with respect to leases and
19 subleases in writing and relating to the same real property."

20 2. By amending subsection (f) to read:



1 "(f) This section shall not cause the tax upon a lessor,
2 with respect to any item of the lessor's gross proceeds or gross
3 income, to exceed [~~four~~] five per cent."

4 SECTION 4. Section 237-18, Hawaii Revised Statutes, is
5 amended by amending subsection (f) to read as follows:

6 "(f) Where tourism related services are furnished through
7 arrangements made by a travel agency or tour packager and the
8 gross income is divided between the provider of the services and
9 the travel agency or tour packager, the tax imposed by this
10 chapter shall apply to each such person with respect to such
11 person's respective portion of the proceeds, and no more.

12 As used in this subsection "tourism related services" means
13 catamaran cruises, canoe rides, dinner cruises, lei greetings,
14 transportation included in a tour package, sightseeing tours not
15 subject to chapter 239, admissions to luaus, dinner shows,
16 extravaganzas, cultural and educational facilities, and other
17 services rendered directly to the customer or tourist, but only
18 if the providers of the services other than air transportation
19 are subject to a [~~four~~] five per cent tax under this chapter or
20 chapter 239."



1 SECTION 5. Section 237-31, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§237-31 Remittances. (a) All remittances of taxes
4 imposed by this chapter shall be made by money, bank draft,
5 check, cashier's check, money order, or certificate of deposit
6 to the office of the department of taxation to which the return
7 was transmitted.

8 (b) The department shall issue its receipts therefor to
9 the taxpayer and shall pay the moneys into the state treasury as
10 a state realization, to be kept and accounted for as provided by
11 law; provided that:

12 (1) A sum, not to exceed \$5,000,000, from all general
13 excise tax revenues realized by the State shall be
14 deposited in the state treasury in each fiscal year to
15 the credit of the compound interest bond reserve fund;

16 (2) A sum from all general excise tax revenues realized by
17 the State that is equal to one-half of the total
18 amount of funds appropriated or transferred out of the
19 hurricane reserve trust fund under sections 4 and 5 of
20 Act 62, Session Laws of Hawaii 2011, shall be
21 deposited into the hurricane reserve trust fund in



1 fiscal year 2013-2014 and in fiscal year 2014-2015;
2 provided that the deposit required in each fiscal year
3 shall be made by October 1 of that fiscal year; and
4 [†] (3) [†] Commencing with fiscal year 2018-2019, a sum from all
5 general excise tax revenues realized by the State that
6 represents the difference between the state public
7 employer's annual required contribution for the
8 separate trust fund established under section 87A-42
9 and the amount of the state public employer's
10 contributions into that trust fund shall be deposited
11 to the credit of the State's annual required
12 contribution into that trust fund in each fiscal year,
13 as provided in section 87A-42.

14 (c) Notwithstanding subsection (b), beginning on
15 July 1, 2023, the additional revenues generated and collected
16 from the increase in general excise tax rates imposed by
17 sections 1, 2, 3, and 4 of Act _____, Session Laws of Hawaii
18 2023, shall be distributed as follows:

19 (1) Fifty per cent of the revenues shall be deposited into
20 the teacher salary special fund established under
21 section 302A- _____ ; and



1 accounted for in accordance with the conditions established by
2 the agency or person making the contribution."

3 SECTION 7. Section 302A-1706, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) There is established within the state treasury a
6 special fund to be known as the school facilities special fund
7 into which shall be deposited:

8 (1) All moneys the authority receives, including funds
9 appropriated or transferred by the legislature for
10 deposit into the special fund;

11 (2) A portion of the revenues from the general excise tax,
12 as provided by section 237-31;

13 [~~2~~] (3) Funds collected pursuant to section 302A-1608(a);
14 provided that these moneys shall be deposited into the
15 appropriate subaccount established pursuant to
16 subsection (b);

17 [~~3~~] (4) Any moneys received by the department in the form
18 of a grant, gift, endowment, or donation for the
19 development, planning, or construction of new school
20 facilities or major renovations of school facilities;
21 and



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1 [~~4~~] (5) All other moneys received by the authority and
2 not deposited into a trust fund or trust account,
3 including unrestricted grants, gifts, and donations;
4 proceeds from sales of property; rents and other
5 receipts from leases, rights of entry, and the like;
6 and interest, refunds, and other receipts and
7 payments."

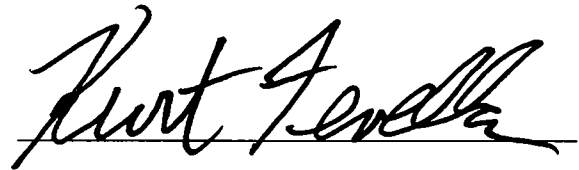
PART III

9 SECTION 8. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 9. This Act shall take effect on July 1, 2023.

12

INTRODUCED BY:



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Report Title:

General Excise Tax; DOE; Teacher Salaries; Teacher Salary Special Fund; School Facilities Special Fund

Description:

Increases the general excise tax by 1%. Establishes the teacher salary special fund within the Department of Education. Requires that increased general excise tax revenues be deposited into the teacher salary special fund and the school facilities special fund.

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