Honorable Ronald D. Kouchi  
President of the Senate  
Thirtieth State Legislature  
Regular Session of 2019  
State of Hawaii  

Sir:  

Your Committee on Ways and Means, to which was referred S.B. No. 1130 entitled:  

"A BILL FOR AN ACT RELATING TO TAXATION,"  

begs leave to report as follows:  

The purpose and intent of this measure is to specify that the Internal Revenue Code section 512(a)(7), with respect to increases in unrelated business taxable income by disallowed fringe, is not operative in Hawaii income tax law.  

Your Committee received testimony in support of this measure from the University of Hawaii Foundation and the Hawaii Alliance of Nonprofit Organizations. Your Committee received comments on this measure from the Department of Taxation and the Tax Foundation of Hawaii.  

Your Committee finds that the federal Tax Cuts and Jobs Act of 2017 disallowed certain fringe benefit deductions for ordinary businesses while increasing the unrelated business taxable income of tax-exempt organizations for the same amounts that are disallowed as deductions to ordinary businesses. Your Committee further finds that in Act 27, Session Laws of Hawaii 2018, Hawaii did not conform to the disallowance of deductions for ordinary businesses, but inadvertently conformed to the increase in unrelated business taxable income of tax-exempt organizations for
the same amounts that are disallowed as deductions to ordinary businesses.

Your Committee therefore finds that this measure is necessary to restore equity between ordinary businesses and tax-exempt organizations with regard to the tax treatment of fringe benefits by ensuring that Hawaii does not conform to the increase in unrelated business taxable income of tax-exempt organizations for the same amounts that are disallowed as deductions to ordinary businesses.

Your Committee was informed by the Department of Taxation that the department prefers that any changes to conformity with the Internal Revenue Code should be limited to a single bill. Specifically, S.B. No. 1267, which is the department's annual conformity bill and was heard by your Committee, addresses the inconsistency with regard to the tax treatment of fringe benefits and also conforms other income tax and estate and generation-skipping transfer tax laws to the Internal Revenue Code. Your Committee notes that for S.B. No. 1267, testimony in support of the measure was received from the Department of Taxation while comments were received from the Tax Foundation of Hawaii.

Your Committee has amended S.B. No. 1130 by:

(1) Incorporating the contents of S.B. No. 1267 into S.B. No. 1130, using the Department of Taxation's language with regard to Section 512(a)(7) of the Internal Revenue Code; and

(2) Correcting technical errors in the text of the Hawaii Revised Statutes as drafted in S.B. No. 1267.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1130, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1130, S.D. 1, and be placed on the calendar for Third Reading.
Respectfully submitted on behalf of the members of the Committee on Ways and Means,

DONOVAN M. DELA CRUZ, Chair
The Senate  
Thirtieth Legislature  
State of Hawai‘i

Record of Votes  
Committee on Ways and Means  
WAM

Bill / Resolution No.:*  
SB 1130

Committee Referral:  
WAM

Date:  
2/6/19

☐ The Committee is reconsidering its previous decision on this measure.  
If so, then the previous decision was to: ________________________________

The Recommendation is:  
☐ Pass, unamended  
☐ Pass, with amendments  
☐ Hold  
☐ Recommit  
☐ 2312  
☐ 2311  
☐ 2310  
☐ 2313

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<th>Members</th>
<th>Aye</th>
<th>Aye (WR)</th>
<th>Nay</th>
<th>Excused</th>
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<td>KEITH-AGARAN, Gilbert S.C. (VC)</td>
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<td>ENGLISH, J. Kalani</td>
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<td>HARIMOTO, Breene</td>
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<td>INOUYE, Lorraine R.</td>
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TOTAL  
13

Recommendation:  
☐ Adopted  
☐ Not Adopted

Chair's or Designee's Signature: ________________________________

Distribution:  
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Committee File Copy

*Only one measure per Record of Votes

Revised: 12/19/18