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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 the department of  
2 education faces educational infrastructure issues caused by  
3 overcapacity and underfunding, while the highways division of  
4 the department of transportation faces a threat of inundation  
5 and damage to the state highway system caused by climate change.  
6 The legislature also finds that certain state funds will need an  
7 additional, temporary source of moneys in the future.

8           The purpose of this Act is to:

- 9           (1) Permanently direct specified percentages of general  
10           excise tax revenues to the department of education to  
11           strengthen its infrastructure and to the department of  
12           transportation for the costs of protecting the state  
13           highway system from the threat of damage caused by  
14           climate change;
- 15           (2) Establish a temporary state improvement surcharge on  
16           the general excise tax and use tax; and



1           (3) Direct specified percentages of state improvement  
2           surcharge revenues to the purposes in paragraph (1)  
3           and to the compound interest bond reserve fund, the  
4           hurricane reserve fund, and the separate trust fund  
5           established under section 87A-42.

6           SECTION 2. Chapter 237, Hawaii Revised Statutes, is  
7           amended by adding a new section to be appropriately designated  
8           and to read as follows:

9           "§237-           State improvement surcharge. (a) From  
10          January 1, 2031, to December 31, 2035, a state improvement  
11          surcharge shall be levied, assessed, and collected as provided  
12          in this section on all gross proceeds and gross income taxable  
13          under this chapter. The state improvement surcharge shall be  
14          set at a rate equal to one-half per cent of all gross proceeds  
15          and gross income taxable under this chapter. All provisions of  
16          this chapter shall apply to the state improvement surcharge.  
17          With respect to the surcharge, the director of taxation shall  
18          have all the rights and powers provided under this chapter.

19          (b) The state improvement surcharge shall be imposed on  
20          the gross proceeds or gross income of all written contracts that  
21          require the passing on of the taxes imposed under this chapter;



1 provided that if the gross proceeds or gross income are received  
2 as payments beginning in the taxable year in which the taxes  
3 become effective, on contracts entered into before June 30 of  
4 the year prior to the taxable year in which the taxes become  
5 effective, and the written contracts do not provide for the  
6 passing on of increased rates of taxes, the state improvement  
7 surcharge shall not be imposed on the gross proceeds or gross  
8 income covered under the written contracts. The state  
9 improvement surcharge shall be imposed on the gross proceeds or  
10 gross income from all contracts entered into on or after June 30  
11 of the year prior to the taxable year in which the taxes become  
12 effective, regardless of whether the contract allows for the  
13 passing on of any tax or any tax increases.

14 (c) No state improvement surcharge shall be established on  
15 any:

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

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

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



1        (d) The director of taxation shall revise the general  
 2 excise tax forms to provide for the clear and separate  
 3 designation of the imposition and payment of the state  
 4 improvement surcharge.

5        (e) All taxpayers who file on a fiscal year basis whose  
 6 fiscal year ends after December 31 of the year prior to the  
 7 taxable year in which the taxes become effective, shall file a  
 8 short period annual return for the period preceding January 1 of  
 9 the taxable year in which the taxes become effective. Each  
 10 fiscal year taxpayer shall also file a short period annual  
 11 return for the period starting on January 1 of the taxable year  
 12 in which the taxes become effective, and ending before January 1  
 13 of the following year."

14        SECTION 3. Chapter 238, Hawaii Revised Statutes, is  
 15 amended by adding a new section to be appropriately designated  
 16 and to read as follows:

17        "§238-        State improvement surcharge. (a) From  
 18 January 1, 2031, to December 31, 2035, a state improvement  
 19 surcharge shall be levied, assessed, and collected as provided  
 20 in this section on the value of property and services taxable  
 21 under this chapter. The state improvement surcharge shall be



1 set at a rate equal to one-half per cent of the value of  
2 property taxable under this chapter. All provisions of this  
3 chapter shall apply to the state improvement surcharge. With  
4 respect to the surcharge, the director of taxation shall have  
5 all the rights and powers provided under this chapter.

6 (b) No state improvement surcharge shall be established  
7 upon any use taxable under this chapter at the one-half per cent  
8 tax rate or upon any use that is not subject to taxation or that  
9 is exempt from taxation under this chapter.

10 (c) The director of taxation shall revise the use tax  
11 forms to provide for the clear and separate designation of the  
12 imposition and payment of the state improvement surcharge.

13 (d) All taxpayers who file on a fiscal year basis whose  
14 fiscal year ends after December 31 of the year prior to the  
15 taxable year in which the taxes become effective, shall file a  
16 short period annual return for the period preceding January 1 of  
17 the taxable year in which the taxes become effective. Each  
18 fiscal year taxpayer shall also file a short period annual  
19 return for the period starting on January 1 of the taxable year  
20 in which the taxes become effective, and ending before January 1  
21 of the following year."



1 SECTION 4. 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. The department shall issue its receipts  
8 therefor to the taxpayer and, except for moneys collected  
9 pursuant to section 237- , shall pay the moneys into the state  
10 treasury as a state realization, to be kept and accounted for as  
11 provided by 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  
5 all general excise tax revenues realized by the State  
6 that represents the difference between the state  
7 public 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 (4) A sum equal to 0.25 per cent of all general excise tax  
15 revenues realized by the State shall be deposited into  
16 a separate account in the state treasury in each  
17 fiscal year to be appropriated by the legislature for  
18 the department of education to augment the capacity  
19 and infrastructure of its facilities and programs; and

20 (5) A sum equal to 0.25 per cent of all general excise tax  
21 revenues realized by the State shall be deposited into



1           the state highway fund established in section 248-8 to  
2           protect the state highway system from the threat of  
3           inundation and damage caused by climate change.

4           (b) State improvement surcharge revenues realized by the  
5           State, that were levied, assessed, or collected from January 1,  
6           2031, to December 31, 2035, pursuant to section 237-       shall be  
7           distributed as follows:

8           (1) Twenty per cent shall be allocated to the compound  
9           interest bond reserve fund;

10          (2) Twenty per cent shall be allocated to the hurricane  
11          reserve trust fund;

12          (3) Twenty per cent shall be allocated to the separate  
13          trust fund established under section 87A-42;

14          (4) Twenty per cent shall be allocated to the separate  
15          account established pursuant to subsection (a)(4); and

16          (5) Twenty per cent shall be allocated to the state  
17          highway fund established in section 248-8 to protect  
18          the state highway system from the threat of inundation  
19          and damage caused by climate change."

20           SECTION 5. Section 238-14, Hawaii Revised Statutes, is  
21           amended to read as follows:





1           "§238-14 Taxes state realizations. (a) All taxes  
2 collected under this chapter shall be state realizations.

3           (b) State improvement surcharge revenues realized by the  
4 State that were levied, assessed, or collected from January 1,  
5 2031, to December 31, 2035, pursuant to section 238- shall be  
6 distributed as follows:

7           (1) Twenty per cent shall be allocated to the compound  
8 interest bond reserve fund;

9           (2) Twenty per cent shall be allocated to the hurricane  
10 reserve trust fund;

11           (3) Twenty per cent shall be allocated to the separate  
12 trust fund established under section 87A-42;

13           (4) Twenty per cent shall be allocated to the separate  
14 account established pursuant to section 237-31(a)(4);

15           and

16           (5) Twenty per cent shall be allocated to the state  
17 highway fund established in section 248-8 to protect  
18 the state highway system from the threat of inundation  
19 and damage caused by climate change."

20           SECTION 6. Section 248-9, Hawaii Revised Statutes, is  
21 amended by amending subsection (a) to read as follows:



1           " (a) Moneys in the state highway fund may be expended for  
2 the following purposes:

3           (1) To pay the costs of operation, maintenance, and repair  
4           of the state highway system, including without  
5           limitation, the cost of equipment and general  
6           administrative overhead;

7           (2) To pay the costs of acquisition (including real  
8           property and interests therein), planning, designing,  
9           construction, and reconstruction of the state highway  
10          system and bikeways, including, without limitation,  
11          the cost of equipment and general administrative  
12          overhead;

13          (3) To reimburse the general fund for interest on and  
14          principal of general obligation bonds issued to  
15          finance highway projects where the bonds are  
16          designated to be reimbursable out of the state highway  
17          fund; [~~and~~]

18          (4) To pay the costs of construction, maintenance, and  
19          repair of county roads; provided that none of the  
20          funds expended on a county road or program shall be  
21          federal funds when such expenditure would cause a



1 violation of federal law or a federal grant  
 2 agreement[-]; and  
 3 (5) To pay the costs of protecting the state highway  
 4 system from the threat of inundation and damage caused  
 5 by climate change."

6 SECTION 7. Statutory material to be repealed is bracketed  
 7 and stricken. New statutory material is underscored.

8 SECTION 8. This Act shall take effect on July 1, 2020.

9

INTRODUCED BY: *Ch. J. K. Carr*  
*[Signature]*  
*[Signature]*  
 JAN 17 2020



# H.B. NO. 1990

**Report Title:**

General Excise Tax; Use Tax; DOE; DOT; State Improvement Surcharge

**Description:**

Permanently directs specified percentages of the general excise tax revenues to the Department of Education to augment its capacity and infrastructure and to the Department of Transportation to protect the state highway system from the threat of inundation and damage caused by climate change. Directs specified percentages of revenues from a new, temporary state improvement surcharge to the foregoing purposes and to certain state funds.

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

