

STAND. COM. REP. NO.

686

Honolulu, Hawaii

FEB 28 2019

RE: S.B. No. 1130
S.D. 1

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.

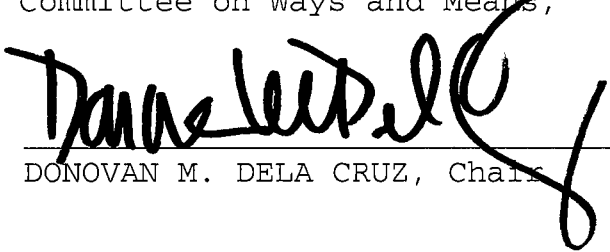
Your Committee has amended S.B. No. 1130 by:

- (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,



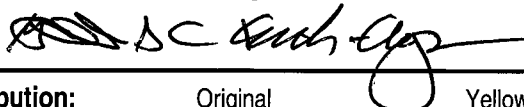
A handwritten signature in black ink, appearing to read "Donovan M. DeLa Cruz", written over a horizontal line.

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.:*	Committee Referral:	Date:		
SB 1130	WAM	2/6/19		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
DELA CRUZ, Donovan M. (C)	X			
KEITH-AGARAN, Gilbert S.C. (VC)	X			
ENGLISH, J. Kalani	X			
HARIMOTO, Breene	X			
INOUYE, Lorraine R.	X			
KAHELE, Kaiali'i	X			
KANUHA, Dru Mamo	X			
KIDANI, Michelle N.	X			
MORIWAKI, Sharon Y.	X			
RIVIERE, Gil	X			
SHIMABUKURO, Maile S.L.	X			
TANIGUCHI, Brian T.	X			
FEVELLA, Kurt	X			
TOTAL	13			
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
Distribution:				
Original	Yellow	Pink	Goldenrod	
File with Committee Report	Clerk's Office	Drafting Agency	Committee File Copy	

*Only one measure per Record of Votes