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# A BILL FOR AN ACT

RELATING TO TRANSPORTATION.

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

1 **PART I**

2 SECTION 1. The legislature finds that throughout the  
3 United States, approximately seventy-five airports have  
4 renovated, reconfigured, and relocated rental motor vehicle  
5 customer facilities as an appropriate means of efficiently and  
6 effectively dealing with increased demands for space. Many of  
7 these airports commonly use the collection of a rental motor  
8 vehicle customer facility charge to finance the renovation,  
9 construction, operation, and maintenance of rental motor vehicle  
10 customer facilities, and to pay for associated shuttle bus  
11 systems to transport passengers to and from these rental motor  
12 vehicle customer facilities, without adversely affecting general  
13 airport funds.

14 The legislature further finds that concessionaires,  
15 including rental motor vehicle companies, have historically  
16 contributed about fifty per cent or more of Hawaii's airport  
17 revenues by way of concession rental payments. These revenues



1 have typically been used to pay for improvements for airlines,  
2 as well as some improvements for airport concessions. It is not  
3 the intent of the legislature to preclude the use of such  
4 revenues for facility improvements and other support for rental  
5 motor vehicle concessions at public airports by the passage of  
6 this Part.

7 It is the intent of the legislature to expedite the  
8 provision of needed rental motor vehicle customer facilities and  
9 related services that can better serve Hawaii's visitors and  
10 residents. The development of common facilities and related  
11 services has been under discussion for several years between the  
12 department of transportation and rental motor vehicle concession  
13 operators. However, given statewide airport expenditure plans  
14 and the impact of recent airline shutdowns on airport revenues,  
15 it is both timely and important to consider other options for  
16 development of common facilities and related services at  
17 Hawaii's airports.

18 The lack of such facilities has a detrimental effect on  
19 residents and visitors alike. For example, reports by  
20 concession operators regarding the shared storage lot for  
21 vehicles at the public airport in Kahului, Maui, indicate poor



1 conditions have resulted in flooding and damage to vehicles  
2 stored at the lot as a result of heavy rains.

3 The legislature acknowledges the difficulties in achieving  
4 universal consensus on the revenue generating method in this  
5 Part. However, legislative decisions must be based on what the  
6 members deem to be in the public's best interest. As such, the  
7 legislature believes that the provisions of this Part are in  
8 keeping with the public's best interests: to maintain and  
9 enhance services to Hawaii residents and visitors, while  
10 ensuring revenues necessary to maintain and support ongoing and  
11 future improvements to Hawaii's airport system.

12 The legislature's intent is to provide initial funding in  
13 amounts it deems sufficient to enable the department of  
14 transportation to accomplish the purpose of this part. In  
15 addition, the required reporting provisions will assist the  
16 legislature in monitoring expenditures and in determining any  
17 changes in future appropriations that are in keeping with the  
18 public's best interests and the purposes of this part.

19 The purpose of this part is to provide the department of  
20 transportation with the authority to establish and collect a  
21 rental motor vehicle customer facility charge dedicated to the



1 renovation and development of rental motor vehicle customer  
2 facilities, including, without limitation:

- 3 (1) Acquisition of property or property rights;
- 4 (2) Acquisition of equipment for and operation of a  
5 unified shuttle bus system to and from passenger  
6 terminals and rental motor vehicle customer  
7 facilities; and
- 8 (3) Design, construction, renovation, operation, and  
9 maintenance of the rental motor vehicle customer  
10 facilities and related services throughout the public  
11 airport system for the State of Hawaii.

12 SECTION 2. Chapter 261, Hawaii Revised Statutes, is  
13 amended by adding a new section to be appropriately designated  
14 and to read as follows:

15 "§261- Rental motor vehicle customer facility charge  
16 special fund. (a) There is established in the state treasury  
17 the rental motor vehicle customer facility charge special fund  
18 to be administered by the director, into which shall be  
19 deposited all proceeds from the rental motor vehicle customer  
20 facility charge.

21 (b) Moneys in the rental motor vehicle customer facility  
22 charge special fund shall be used for enhancement, renovation,



1 operation, and maintenance of existing rental motor vehicle  
2 customer facilities and the development of new rental motor  
3 vehicle customer facilities and related services at state  
4 airports, including:

5 (1) Acquisition and maintenance of property or property  
6 rights for rental motor vehicle purposes;

7 (2) Acquisition of equipment for and operation of a  
8 unified shuttle bus system to and from passenger  
9 terminals and the rental motor vehicle customer  
10 facilities;

11 (3) Consultant fees;

12 (4) Management, operation, and maintenance fees for rental  
13 motor vehicle customer facilities; and

14 (5) Conceptual plans, plans, design, construction,  
15 operation, and maintenance of, or allocable to, the  
16 approved rental motor vehicle customer facilities and  
17 related services.

18 In planning the future needs and expenditures of these moneys,  
19 the director, or deputy designated by the director, shall, at  
20 least once a year, consult with lessors, as defined in section  
21 437D-3, who are using or who in the future may use the  
22 facilities and services. No moneys shall be expended to plan,



1 design, improve, enhance, acquire, or construct rental motor  
 2 vehicle customer facilities, equipment, or services shared or to  
 3 be shared by rental motor vehicle concessions at a state airport  
 4 except as determined by the director; provided that the director  
 5 shall not approve the expenditure of any moneys except for  
 6 planning and design purposes to improve or construct rental  
 7 motor car vehicle customer facilities and related services  
 8 located at an airport until a concession bid for rental motor  
 9 vehicle concessions located at the public airport as of July 1,  
 10 2008, is first advertised, bid upon, and awarded by the  
 11 department of transportation.

12 (c) The rental motor vehicle customer facility charge  
 13 special fund shall be exempt from sections 36-30 and 103-8.5."

14 SECTION 3. Section 36-27, Hawaii Revised Statutes, is  
 15 amended to read as follows:

16 **"§36-27 Transfers from special funds for central service**  
 17 **expenses.** Except as provided in this section, and  
 18 notwithstanding any other law to the contrary, from time to  
 19 time, the director of finance, for the purpose of defraying the  
 20 prorated estimate of central service expenses of government in  
 21 relation to all special funds, except the:



- 1 (1) Special out-of-school time instructional program fund
- 2 under section 302A-1310;
- 3 (2) School cafeteria special funds of the department of
- 4 education;
- 5 (3) Special funds of the University of Hawaii;
- 6 (4) State educational facilities improvement special fund;
- 7 (5) Convention center enterprise special fund under
- 8 section 201B-8;
- 9 (6) Special funds established by section 206E-6;
- 10 (7) Housing loan program revenue bond special fund;
- 11 (8) Housing project bond special fund;
- 12 (9) Aloha Tower fund created by section 206J-17;
- 13 (10) Funds of the employees' retirement system created by
- 14 section 88-109;
- 15 (11) Unemployment compensation fund established under
- 16 section 383-121;
- 17 (12) Hawaii hurricane relief fund established under chapter
- 18 431P;
- 19 (13) Hawaii health systems corporation special funds and
- 20 the subaccounts of its regional system boards;
- 21 (14) Tourism special fund established under section
- 22 201B-11;



- 1 (15) Universal service fund established under chapter 269;
- 2 (16) Emergency and budget reserve fund under section
- 3 328L-3;
- 4 (17) Public schools special fees and charges fund under
- 5 section 302A-1130(f);
- 6 (18) Sport fish special fund under section 187A-9.5;
- 7 (19) Neurotrauma special fund under section 321H-4;
- 8 (20) Deposit beverage container deposit special fund under
- 9 section 342G-104;
- 10 (21) Glass advance disposal fee special fund established by
- 11 section 342G-82;
- 12 (22) Center for nursing special fund under section 304A-
- 13 2163;
- 14 (23) Passenger facility charge special fund established by
- 15 section 261-5.5;
- 16 (24) Solicitation of funds for charitable purposes special
- 17 fund established by section 467B-15;
- 18 (25) Land conservation fund established by section 173A-5;
- 19 (26) Court interpreting services revolving fund under
- 20 section 607-1.5;
- 21 (27) Trauma system special fund under section 321-22.5;
- 22 (28) Hawaii cancer research special fund;





1 (29) Community health centers special fund; [~~and~~]  
2 (30) Emergency medical services special fund; and  
3 (31) Rental motor vehicle customer facility charge special  
4 fund established under section 261- ;  
5 shall deduct five per cent of all receipts of all other special  
6 funds, which deduction shall be transferred to the general fund  
7 of the State and become general realizations of the State. All  
8 officers of the State and other persons having power to allocate  
9 or disburse any special funds shall cooperate with the director  
10 in effecting these transfers. To determine the proper revenue  
11 base upon which the central service assessment is to be  
12 calculated, the director shall adopt rules pursuant to chapter  
13 91 for the purpose of suspending or limiting the application of  
14 the central service assessment of any fund. No later than  
15 twenty days prior to the convening of each regular session of  
16 the legislature, the director shall report all central service  
17 assessments made during the preceding fiscal year."

18 SECTION 4. Section 36-30, Hawaii Revised Statutes, is  
19 amended by amending subsection (a) to read as follows:

20 "(a) Each special fund, except the:

21 (1) Transportation use special fund established by section  
22 261D-1;



- 1       (2) Special out-of-school time instructional program fund
- 2             under section 302A-1310;
- 3       (3) School cafeteria special funds of the department of
- 4             education;
- 5       (4) Special funds of the University of Hawaii;
- 6       (5) State educational facilities improvement special fund;
- 7       (6) Special funds established by section 206E-6;
- 8       (7) Aloha Tower fund created by section 206J-17;
- 9       (8) Funds of the employees' retirement system created by
- 10            section 88-109;
- 11       (9) Unemployment compensation fund established under
- 12            section 383-121;
- 13       (10) Hawaii hurricane relief fund established under chapter
- 14            431P;
- 15       (11) Convention center enterprise special fund established
- 16            under section 201B-8;
- 17       (12) Hawaii health systems corporation special funds and
- 18            the subaccounts of its regional system boards;
- 19       (13) Tourism special fund established under section
- 20            201B-11;
- 21       (14) Universal service fund established under chapter 269;



- 1 (15) Emergency and budget reserve fund under section  
2 328L-3;
- 3 (16) Public schools special fees and charges fund under  
4 section 302A-1130(f);
- 5 (17) Sport fish special fund under section 187A-9.5;
- 6 (18) Neurotrauma special fund under section 321H-4;
- 7 (19) Center for nursing special fund under section 304A-  
8 2163;
- 9 (20) Passenger facility charge special fund established by  
10 section 261-5.5;
- 11 (21) Court interpreting services revolving fund under  
12 section 607-1.5;
- 13 (22) Trauma system special fund under section 321-22.5;
- 14 (23) Hawaii cancer research special fund;
- 15 (24) Community health centers special fund; ~~and~~
- 16 (25) Emergency medical services special fund; and
- 17 (26) Rental motor vehicle customer facility charge special  
18 fund established under section 261- ,
- 19 shall be responsible for its pro rata share of the  
20 administrative expenses incurred by the department responsible  
21 for the operations supported by the special fund concerned."



1 SECTION 5. Section 103-8.5, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3 "(a) There is created a works of art special fund, into  
4 which shall be transferred one per cent of all state fund  
5 appropriations for capital improvements designated for the  
6 construction cost element; provided that this transfer shall  
7 apply only to capital improvement appropriations that are  
8 designated for the construction or renovation of state  
9 buildings. The one per cent transfer requirement shall not  
10 apply to appropriations from the passenger facility charge  
11 special fund established by section 261-5.5[-] and the rental  
12 motor vehicle customer facility charge special fund established  
13 under section 261- ."

14 SECTION 6. Section 261-5, Hawaii Revised Statutes, is  
15 amended by amending subsection (a) to read as follows:

16 "(a) Except for ~~[that]~~:  
17 (1) That portion of the payments received by the  
18 department under a contract entered into as authorized  
19 by section 261-7 and deposited in the transportation  
20 use special fund pursuant to section 261D-1~~[, and~~  
21 ~~except for all]~~;



1       (2) All proceeds from the passenger facility charge and  
2           deposited in the passenger facility charge special  
3           fund[7]; and

4       (3) All proceeds from the rental motor vehicle customer  
5           facility charge and deposited in the rental motor  
6           vehicle customer facility charge special fund,

7 all moneys received by the department from rents, fees, and  
8 other charges collected pursuant to this chapter, as well as all  
9 aviation fuel taxes paid pursuant to section 243-4(a)(2), shall  
10 be paid into the airport revenue fund created by section 248-8.

11       All moneys paid into the airport revenue fund shall be  
12 appropriated, applied, or expended by the department for any  
13 purpose within the jurisdiction, powers, duties, and functions  
14 of the department related to the statewide system of airports,  
15 including, without limitation, the costs of operation,  
16 maintenance, and repair of the statewide system of airports and  
17 reserves therefor, and acquisitions (including real property and  
18 interests therein), constructions, additions, expansions,  
19 improvements, renewals, replacements, reconstruction,  
20 engineering, investigation, and planning for the statewide  
21 system of airports, all or any of which in the judgment of the  
22 department are necessary to the performance of its duties or



1 functions. The department shall generate sufficient revenues  
2 from its airport properties to meet all of the expenditures of  
3 the statewide system of airports and to comply with section 39-  
4 61; provided that as long as sufficient revenues are generated  
5 to meet such expenditures, the director of transportation may,  
6 in the director's discretion, grant a rebate of the aviation  
7 fuel taxes paid into the airport revenue fund during a fiscal  
8 year pursuant to sections 243-4(a)(2) and 248-8 to any person  
9 who has paid airport use charges or landing fees during such  
10 fiscal year. Such rebate may be granted during the next  
11 succeeding fiscal year but shall not exceed one-half cent per  
12 gallon per person, and shall be computed on the total number of  
13 gallons for which the tax was paid by such person, for such  
14 fiscal year."

15 SECTION 7. Section 261-7, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "**§261-7 Operation and use privileges.** (a) In operating  
18 an airport or air navigation facility owned or controlled by the  
19 department of transportation, or in which it has a right or  
20 interest, the department may enter into contracts, leases,  
21 licenses, and other arrangements with any person:



- 1           (1) Granting the privilege of using or improving the  
2           airport or air navigation facility or any portion or  
3           facility thereof or space therein for commercial  
4           purposes;
- 5           (2) Conferring the privilege of supplying goods,  
6           commodities, things, services, or facilities at the  
7           airport or air navigation facility;
- 8           (3) Making available services, facilities, goods,  
9           commodities, or other things to be furnished by the  
10          department or its agents at the airport or air  
11          navigation facility; or
- 12          (4) Granting the use and occupancy on a temporary basis by  
13          license or otherwise any portion of the land under its  
14          jurisdiction which for the time being may not be  
15          required by the department so that it may put the area  
16          to economic use and thereby derive revenue therefrom.

17          All the arrangements shall contain a clause that the land  
18          may be repossessed by the department when needed for aeronautics  
19          purposes upon giving the tenant temporarily occupying the same  
20          not less than thirty days' notice in writing of intention to  
21          repossess.



1 (b) Except as otherwise provided in this section, in each  
2 case mentioned in subsection (a) (1), (2), (3), and (4), the  
3 department may establish the terms and conditions of the  
4 contract, lease, license, or other arrangement, and may fix the  
5 charges, rentals, or fees for the privileges, services, or  
6 things granted, conferred, or made available, for the purpose of  
7 meeting the expenditures of the statewide system of airports set  
8 forth in section 261-5(a), which includes expenditures for  
9 capital improvement projects approved by the legislature. Such  
10 charges shall be reasonable and uniform for the same class of  
11 privilege, service, or thing.

12 (c) The department shall enter into a contract with no  
13 more than one person ("contractor") for the sale and delivery of  
14 in-bond merchandise at Honolulu International Airport, in the  
15 manner provided by law. The contract shall confer the right to  
16 operate and maintain commercial facilities within the airport  
17 for the sale of in-bond merchandise and the right to deliver to  
18 the airport in-bond merchandise for sale to departing foreign-  
19 bound passengers.

20 The department shall grant the contract pursuant to the  
21 laws of this State and may take into consideration:





- 1           (1) The payment to be made on in-bond merchandise sold at  
2                   Honolulu International Airport and on in-bond  
3                   merchandise displayed or sold elsewhere in the [State]  
4                   state and delivered to the airport;
- 5           (2) The ability of the applicant to comply with all  
6                   federal and state rules and regulations concerning the  
7                   sale and delivery of in-bond merchandise; and
- 8           (3) The reputation, experience, and financial capability  
9                   of the applicant.

10           The department shall actively supervise the operation of  
11 the contractor to [~~insure~~] ensure its effectiveness. The  
12 department shall develop and implement such guidelines as it may  
13 find necessary and proper to actively supervise the operations  
14 of the contractor, and shall include guidelines relating to the  
15 department's review of the reasonableness of contractor's price  
16 schedules, quality of merchandise, merchandise assortment,  
17 operations, and service to customers.

18           Apart from the contract described in this subsection, the  
19 department shall confer no right upon nor suffer nor allow any  
20 person to offer to sell, sell, or deliver in-bond merchandise at  
21 Honolulu International Airport; provided that this section shall



1 not prohibit the delivery of in-bond merchandise as cargo to the  
2 Honolulu International Airport.

3 (d) The department, by contract, lease, or other  
4 arrangement, upon a consideration fixed by it, may grant to any  
5 qualified person the privilege of operating, as agent of the  
6 State or otherwise, any airport owned or controlled by the  
7 department; provided that no such person shall be granted any  
8 authority to operate the airport other than as a public airport  
9 or to enter into any contracts, leases, or other arrangements in  
10 connection with the operation of the airport which the  
11 department might not have undertaken under subsection (a).

12 (e) The department may fix and regulate, from time to  
13 time, reasonable landing fees for aircraft, including the  
14 imposition of landing surcharges or differential landing fees,  
15 and other reasonable charges for the use and enjoyment of the  
16 airports and the services and facilities furnished by the  
17 department in connection therewith, including the establishment  
18 of a statewide system of airports landing fees, a statewide  
19 system of airports support charges, and joint use charges for  
20 the use of space shared by users, which fees and charges may  
21 vary among different classes of users such as foreign carriers,  
22 domestic carriers, inter-island carriers, air taxi operators,



1 helicopters, and such other classes as may be determined by the  
2 director, for the purpose of meeting the expenditures of the  
3 statewide system of airports set forth in section 261-5(a),  
4 which includes expenditures for capital improvement projects  
5 approved by the legislature.

6 In setting airports rates and charges, including landing  
7 fees, the director may enter into contracts, leases, licenses,  
8 and other agreements with aeronautical users of the statewide  
9 system of airports containing such terms, conditions, and  
10 provisions as the director deems advisable.

11 If the director has not entered into contracts, leases,  
12 licenses, and other agreements with any or fewer than all of the  
13 aeronautical users of the statewide system of airports prior to  
14 the expiration of an existing contract, lease, license, or  
15 agreement, the director shall set and impose rates, rentals,  
16 fees, and charges pursuant to this subsection without regard to  
17 the requirements of chapter 91; provided that a public  
18 informational hearing shall be held on the rates, rentals, fees,  
19 and charges.

20 The director shall develop rates, rentals, fees, and  
21 charges in accordance with a residual methodology so that the  
22 statewide system of airports shall be, and always remain, self-



1 sustaining. The rates, rentals, fees, and charges shall be set  
2 at such levels as to produce revenues which, together with  
3 aviation fuel taxes, shall be at least sufficient to meet the  
4 expenditures of the statewide system of airports set forth in  
5 section 261-5(a), including expenditures for capital improvement  
6 projects approved by the legislature, and to comply with  
7 covenants and agreements with holders of airport revenue bonds.

8 The director may develop and formulate methodology in  
9 setting the various rates, rentals, fees, and charges imposed  
10 and may determine usage of space, estimate landed weights, and  
11 apply such portion of nonaeronautical revenue deemed appropriate  
12 in determining the rates, rentals, fees, and charges applicable  
13 to aeronautical users of the statewide system of airports.

14 The rates, rentals, fees, and charges determined by the  
15 director in the manner set forth in this subsection shall be  
16 those charges payable by the aeronautical users for the periods  
17 immediately following the date of expiration of the existing  
18 contract, lease, license, or agreement. If fees are established  
19 pursuant to this section, the department shall prepare a  
20 detailed report on the circumstances and rates and charges that  
21 have been established, and shall submit the report to the



1 legislature no later than twenty days prior to the convening of  
2 the next regular session.

3       If a schedule of rates, rentals, fees, and charges  
4 developed by the director in accordance with this section is  
5 projected by the department to produce revenues which, together  
6 with aviation fuel taxes, will be in excess of the amount  
7 required to meet the expenditures of the statewide system of  
8 airports set forth in section 261-5(a), including expenditures  
9 for capital improvement projects approved by the legislature,  
10 and to comply with covenants and agreements with holders of  
11 airport revenue bonds, the department shall submit the schedule  
12 of rates, rentals, fees, and charges to the legislature prior to  
13 the convening of the next regular session of the legislature.  
14 Within forty-five days after the convening of the regular  
15 session, the legislature may disapprove any schedule of rates,  
16 rentals, fees, and charges required to be submitted to it by  
17 this section by concurrent resolution. If no action is taken by  
18 the legislature within the forty-five-day period the schedule of  
19 rates, rentals, fees, and charges shall be deemed approved. If  
20 the legislature disapproves the schedule within the forty-five-  
21 day period, the director shall develop a new schedule of rates,  
22 rentals, fees, and charges in accordance with this section



1 within seventy-five days of the disapproval. Pending the  
2 development of a new schedule of rates, rentals, fees, and  
3 charges, the schedule submitted to the legislature shall remain  
4 in force and effect.

5 Notwithstanding any other provision of law to the contrary,  
6 the department may waive landing fees and other aircraft charges  
7 established under this section at any airport owned or  
8 controlled by the State whenever:

9 (1) The governor declares a state of emergency; and

10 (2) The department determines that the waiver of landing  
11 fees and other charges for the aircraft is consistent  
12 with assisting in the delivery of humanitarian relief  
13 to disaster-stricken areas of the [~~State-~~] state.

14 (f) To enforce the payment of any charges for repairs or  
15 improvements to, or storage or care of any personal property  
16 made or furnished by the department or its agent in connection  
17 with the operation of an airport or air navigation facility  
18 owned or operated by the department, the department shall have  
19 liens on the property, which shall be enforceable by it as  
20 provided by sections 507-18 to 507-22.

21 (g) The department from time to time may establish  
22 developmental rates for buildings and land areas used



1 exclusively for general aviation activities at rates not less  
2 than fifty per cent of the fair market rentals of the buildings  
3 and land areas and may restrict the extent of buildings and land  
4 areas to be [~~utilized.~~] used.

5 (h) Notwithstanding any laws to the contrary, the  
6 department may establish, levy, assess, and collect rental motor  
7 vehicle customer facility charges, which shall be paid to the  
8 department periodically as determined by the department. These  
9 charges shall be used to pay for, or finance on a long-term  
10 basis where appropriate, the design, planning, construction, and  
11 other uses of the rental motor vehicle customer facility charges  
12 as set forth by the rental motor vehicle customer facility  
13 charge special fund in section 261- .

14 The rental motor vehicle customer facility charges shall be  
15 levied, assessed, and collected from all rental motor vehicle  
16 customers who benefit from the use of any type of rental motor  
17 vehicle facility or service provided by the department at a  
18 state airport.

19 All rental motor vehicle customer facility charges shall be  
20 collected by lessors as defined in section 437D-3 and who  
21 operate a car rental concession awarded by the department at a  
22 state airport; provided that customers of lessors, as defined in



1 section 437D-3, who do not operate a car rental concession at a  
2 state airport but whose customers benefit from the use of a car  
3 rental facility or service at a state airport paid for by rental  
4 motor vehicle customer facility charges, shall collect from such  
5 car rental customers, rental motor vehicle customer facility  
6 charges in an amount determined by the department that  
7 represents a fair share of the cost and ongoing expenses  
8 relating to customer use of such a facility or service. All  
9 rental motor vehicle customer facility charges collected by such  
10 lessor shall be paid to the department.

11 Notwithstanding any law to the contrary, the department may  
12 contract the management, maintenance, and operations of the  
13 facility and related services with airport concessions or their  
14 designee that share in the use of a rental motor vehicle  
15 customer facility at a state airport."

16 SECTION 8. Section 437D-8.4, Hawaii Revised Statutes, is  
17 amended by amending subsection (a) to read as follows:

18 "(a) Notwithstanding any law to the contrary, a lessor may  
19 visibly pass on to a lessee:

20 (1) The general excise tax attributable to the  
21 transaction;





- 1           (2) The vehicle license and registration fee and weight  
2           taxes, prorated at 1/365th of the annual vehicle  
3           license and registration fee and weight taxes actually  
4           paid on the particular vehicle being rented for each  
5           full or partial [~~twenty-four hour~~] twenty-four-hour  
6           rental day that the vehicle is rented; provided the  
7           total of all vehicle license and registration fees  
8           charged to all lessees shall not exceed the annual  
9           vehicle license and registration fee actually paid for  
10          the particular vehicle rented;
- 11          (3) The rental motor vehicle surcharge tax as provided in  
12          section 251-2 attributable to the transaction;
- 13          (4) The county surcharge on state tax under section  
14          46-16.8; provided that the lessor itemizes the tax for  
15          the lessee; and
- 16          (5) The rents or fees paid to the department of  
17          transportation under concession contracts[~~7~~]  
18          negotiated pursuant to chapter 102, [~~or~~] service  
19          permits[~~7~~] granted pursuant to title 19, Hawaii  
20          Administrative Rules, or rental motor vehicle customer  
21          facility charges established pursuant to section 261-  
22          7; provided that:



- 1           (A) The rents or fees are limited to amounts that can
- 2                   be attributed to the proceeds of the particular
- 3                   transaction;
- 4           (B) The rents or fees shall not exceed the lessor's
- 5                   net payments to the department of transportation
- 6                   made under concession contract or service permit;
- 7           (C) The lessor submits to the department of
- 8                   transportation and the department of commerce and
- 9                   consumer affairs a statement, verified by a
- 10                  certified public accountant as correct, that
- 11                  reports the amounts of the rents or fees paid to
- 12                  the department of transportation pursuant to the
- 13                  applicable concession contract or service permit:
- 14                  (i) For all airport locations; and
- 15                  (ii) For each airport location;
- 16           (D) The lessor submits to the department of
- 17                   transportation and the department of commerce and
- 18                   consumer affairs a statement, verified by a
- 19                   certified public accountant as correct, that
- 20                  reports the amounts charged to lessees:
- 21                  (i) For all airport locations;
- 22                  (ii) For each airport location; and



- 1 (iii) For each lessee;
- 2 (E) The lessor includes in these reports the  
3 methodology used to determine the amount of fees  
4 charged to each lessee; and
- 5 (F) The lessor submits the above information to the  
6 department of transportation and the department  
7 of commerce and consumer affairs within three  
8 months of the end of the preceding annual  
9 accounting period or contract year as determined  
10 by the applicable concession agreement or service  
11 permit.

12 The respective departments, in their sole discretion,  
13 may extend the time to submit the statement required  
14 in this subsection. If the director determines that  
15 an examination of the lessor's information is  
16 inappropriate under this subsection and the lessor  
17 fails to correct the matter within ninety days, the  
18 director may conduct an examination and charge a  
19 lessor an examination fee based upon the cost per hour  
20 per examiner for evaluating, investigating, and  
21 verifying compliance with this subsection, as well as  
22 additional amounts for travel, per diem, mileage, and



1 other reasonable expenses incurred in connection with  
2 the examination, which shall relate solely to the  
3 requirements of this subsection, and which shall be  
4 billed by the departments as soon as feasible after  
5 the close of the examination. The cost per hour shall  
6 be \$40 or as may be established by rules adopted by  
7 the director. The lessor shall pay the amounts billed  
8 within thirty days following the billing. All moneys  
9 collected by the director shall be credited to the  
10 compliance resolution fund."

11 SECTION 9. Notwithstanding section 7 of this Act, the  
12 department of transportation, as of September 1, 2008, shall  
13 levy, assess, and collect a rental motor vehicle customer  
14 facility charge of \$1 per day, or any portion of a day that a  
15 rental motor vehicle is rented or leased, by a rental motor  
16 vehicle concession where customers pick up and return rental  
17 vehicles to a facility at a state airport as determined by the  
18 director. Moneys shall continue to be collected only until such  
19 time that the sum of \$25,000,000 is collected and deposited into  
20 the rental motor vehicle customer facility charge special fund.  
21 The provisions of this section shall not impair, limit, or  
22 restrict the department of transportation from levying,



1 assessing, establishing, and collecting rental motor vehicle  
2 customer facility charges as set forth in section 7 of this Act.

3 SECTION 10. There is appropriated out of the rental motor  
4 vehicle customer facility charge special fund established by  
5 section 261- , Hawaii Revised Statutes, the sum of  
6 \$10,000,000 or so much thereof as may be necessary for fiscal  
7 year 2008-2009 for the:

- 8 (1) Planning, conceptual design, and design of rental  
9 motor vehicle customer facilities at state airports  
10 and related services; and  
11 (2) Planning, conceptual design, design, and improvement,  
12 pavement, lighting, construction, and fencing to an  
13 existing ground-level storage area shared by rental  
14 motor vehicle concessions at the state airport  
15 located in Kahului, Maui.

16 The sum appropriated shall be expended by the department  
17 of transportation for the purposes of this Act.

18 SECTION 11. The department of transportation shall submit  
19 at least annual reports to the legislature relating to its  
20 activities for the purposes of this Act. The reports shall  
21 provide information and documents including, but not limited to:



- 1 (1) A timeline for any expenditures and a description of
- 2 any projects relating to the expenditures;
- 3 (2) A timeline for the commencement date and completion
- 4 date for any project;
- 5 (3) A description with an appropriate plan or drawing
- 6 identifying the location of any project;
- 7 (4) Cost estimates for each project, including but not
- 8 limited to planning, design, purchase, and
- 9 construction costs and a timeline for the
- 10 expenditures; and
- 11 (5) The priority ranking for each project with
- 12 commencement and completion dates.

13 The annual report shall be submitted to the legislature no  
14 later than twenty days prior to the convening of the regular  
15 session of the legislature, beginning with the regular session  
16 of 2009, and continuing through the regular session of 2018.

17 **PART II**

18 SECTION 12. The purpose of this part is to:

- 19 (1) Extend until August 31, 2011, the \$3 a day rate of the
- 20 rental motor vehicle surcharge tax; and



1           (2) Require the department of transportation to report  
2                    additional revenue-generating initiatives to the  
3                    legislature.

4           SECTION 13. Section 251-2, Hawaii Revised Statutes, is  
5 amended by amending subsection (a) to read as follows:

6           "(a) There is levied and shall be assessed and collected  
7 each month a rental motor vehicle surcharge tax of \$2 a day,  
8 except that for the period of September 1, 1999, to August 31,  
9 [~~2008,~~ 2011, the tax shall be \$3 a day, or any portion of a day  
10 that a rental motor vehicle is rented or leased. The rental  
11 motor vehicle surcharge tax shall be levied upon the lessor;  
12 provided that the tax shall not be levied on the lessor if:

13           (1) The lessor is renting the vehicle to replace a vehicle  
14                    of the lessee that is being repaired; and

15           (2) A record of the repair order for the vehicle is  
16                    retained either by the lessor for two years for  
17                    verification purposes or by a motor vehicle repair  
18                    dealer for two years as provided in section 437B-16."

19           SECTION 14. The department of transportation shall provide  
20 recommendations to the legislature for additional revenue-  
21 generating initiatives that will replenish the state highway  
22 fund, created by section 248-8, Hawaii Revised Statutes, no



1 later than twenty days prior to the convening of the regular  
2 session of 2009.

3 SECTION 15. Statutory material to be repealed is  
4 bracketed and stricken. New statutory material is  
5 underscored.

6 SECTION 16. This Act shall take effect on July 1, 2008.





S.B. NO. 2365  
S.D. 1  
H.D. 1  
C.D. 1

**Report Title:**

Transportation; Rental Motor Vehicle Customer Facility Charges

**Description:**

Authorizes the department of transportation to establish and collect rental motor vehicle customer facility charges; creates a rental motor vehicle customer facility charge special fund; establishes a \$1 daily charge on rentals at state airports; appropriates funds; requires annual report to the legislature from 2009 through 2018. (Part I) Extends until August 31, 2011, the \$3 a day rate of the rental motor vehicle surcharge tax; requires the department of transportation to report additional revenue-generating initiatives to the legislature. (Part II) (CD1)

