

# **ALOHA: THE HEARTBEAT OF OUR LAND -- A STUDY OF SELECTED TOURISM ISSUES**

PAMELA MARTIN  
PETER G. PAN  
DEAN SUGANO  
JENSEN UCHIDA  
Researchers

Report No. 1, 1998

Legislative Reference Bureau  
State Capitol  
Honolulu, Hawaii  
Internet: [www.state.hi.us/lrb/](http://www.state.hi.us/lrb/)

This report has been cataloged as follows:

Martin, Pamela + Pan, Peter G. + Sugano, Dean + Uchida, Jensen.

Aloha: the heartbeat of our land--a study of selected tourism issues. Honolulu: Legislative Reference Bureau, February 1998.

1. Tourist trade - Hawaii. 2. Tourist trade - United States - States.  
KFH421.5.L35.A25.98-1

## FOREWORD

This study was prepared in response to Senate Resolution No. 124, H.D. 1, adopted during the Regular Session of 1997. The Resolution requested the Legislative Reference Bureau to study alternate funding options and corresponding outcomes for tourism marketing and promotion. The Resolution also requested the Bureau to look at previous measures introduced in the Legislature regarding the funding of tourism and to make recommendations to improve accountability and the measurement of performance targets and objectives. These findings and recommendations are the culmination of this report.

This study involved many issues covering a broad expanse of material and expertise. In order to address the quantity of material that needed to be reviewed, the Bureau assigned a team of researchers to gather the necessary information. Researchers Pamela Martin, Peter G. Pan, Dean Sugano, and Jensen Uchida performed admirably in addressing the various components of this very important subject.

The Bureau extends its sincere appreciation to the agencies and organizations who cooperated and assisted with its investigation, and particularly to the State Office of Tourism and the Hawaii Visitors and Convention Bureau, whose cooperation and assistance made this report possible.

Wendell K. Kimura  
Acting Director

February 1998

# TABLE OF CONTENTS

	<i>Page</i>
FOREWORD .....	<i>iii</i>
1. INTRODUCTION .....	1
Background .....	1
Methodology .....	4
2. THE STATE AND TOURISM .....	6
General Overview .....	6
State Government .....	6
Policymaker .....	7
Developer .....	10
Educator .....	11
Coordinator .....	12
Regulator .....	13
Promoter .....	14
Private Sector: Hawaii Visitors and Convention Bureau .....	14
Conflict of Interest .....	16
Free-riders .....	19
Summary .....	20
3. TOURISM PROMOTION AGENCIES AND COMMISSIONS IN OTHER JURISDICTIONS .....	22
Alabama .....	22
Alaska .....	22
Arizona .....	23
Arkansas .....	23
California .....	24
Colorado .....	25
Connecticut .....	25
Delaware .....	26
Florida .....	26
Georgia .....	27
Idaho .....	28
Illinois .....	28
Indiana .....	29
Iowa .....	30
Kansas .....	30
Kentucky .....	31
Louisiana .....	32

	<i>Page</i>
Maine . . . . .	33
Maryland . . . . .	33
Massachusetts . . . . .	34
Michigan . . . . .	35
Minnesota . . . . .	36
Mississippi . . . . .	36
Missouri . . . . .	37
Montana . . . . .	38
Nevada . . . . .	38
New Hampshire . . . . .	39
New Jersey . . . . .	39
New Mexico . . . . .	40
New York . . . . .	40
North Carolina . . . . .	41
North Dakota . . . . .	42
Ohio . . . . .	43
Oklahoma . . . . .	43
Oregon . . . . .	44
Pennsylvania . . . . .	45
Rhode Island . . . . .	45
South Carolina . . . . .	46
South Dakota . . . . .	46
Tennessee . . . . .	46
Texas . . . . .	47
Utah . . . . .	47
Vermont . . . . .	48
Virginia . . . . .	49
Washington . . . . .	49
West Virginia . . . . .	50
Wisconsin . . . . .	50
Wyoming . . . . .	51
4. NON-FUNDING ISSUES: MULTIPLE GOALS . . . . .	52
The Public and Private Sectors--Overlapping and Diverging Interests . . . . .	52
The State's Interests . . . . .	53
Private Sector Interests . . . . .	57
Implications for State Responsibility . . . . .	58
Divergent Public and Private Interests . . . . .	60
Accountability and Performance Evaluation . . . . .	62
Previous Evaluations of Performances--1987 and 1993 Audits . . . . .	63
Evaluating Performance . . . . .	71

	<i>Page</i>
5. FUNDING OPTIONS, OUTCOMES, AND ACCOUNTABILITY IN S.B. NO. 183, S.D. 1; S.B. NO. 1933; AND S.B. NO. 1941 .....	78
Introduction .....	78
Senate Bill No. 1843, S.D. 1 .....	79
Senate Bill No. 1933 .....	84
Senate Bill No. 1941 .....	91
Summary .....	100
6. ANALYSIS, FINDINGS, AND RECOMMENDATIONS .....	103
Policymaking .....	103
Funding .....	104
Recommendations .....	107

### **Figures**

1-1. HVCB Current Organizational Chart .....	2
1-2. State Appropriations to HVCB .....	2
1-3. Per Cent of G.E.T. Revenues Spent on Tourism Marketing and Promotion ...	3
1-4. HVCB Membership Subscriptions .....	3
1-5. State Appropriations to HVCB and State Tourism Office Each Year .....	4
2-1. Funding Tourism Policy Areas .....	9
2-3. Total Expenses of HVCB for Fiscal Year 1996/1997 .....	18
2-4. Distributions of State Funds Through HVCB .....	18
2-5. Distribution of Private Funds Through HVCB .....	18

### **Tables**

2-1. Comparison of Focus Between State Strategic Tourism Plan and Functional Plan .....	8
4-1. Return on Investment Formula .....	76
5-1. State Appropriations and Private Subscriptions to HVCB: Fiscal Period 1996-98 .....	80
5-2. Fiscal Year 2006-07 Funding Ratios Between the State and HVCB .....	82
5-3. HVCB Expense Budget: FY 1997-98 .....	96
5-4. Public Entity's Hypothetical Expenses: FY 1997-98 .....	98
5-5. HVCB Expense Budget: FY 1997-98 .....	98

**Appendices**

A.	S.R. No. 124, S.D.1, Nineteenth Legislature, Regular Session of 1997, State of Hawaii .....	109
B.	Data for Figures 1-2, 1-3, and 1-5 .....	112
C.	Montana Tourism and Film Marketing Plan, 1996-1997 .....	113
D.	Data for Figures 2-3, 2-4, and 2-5 .....	125
E.	S.B. No. 1843, S.D. 1, Nineteenth Legislature, Regular Session of 1997, State of Hawaii .....	136
F.	S.B. No. 1933, Nineteenth Legislature, Regular Session of 1997, State of Hawaii .....	141
G.	S.B. No. 1941, Nineteenth Legislature, Regular Session of 1997, State of Hawaii .....	171
H.	Suggested Legislation .....	186

# Chapter 1

## INTRODUCTION

This study is the result of Senate Resolution No. 124, S.D. 1, “*Requesting a Study of Funding Options for Tourism Marketing and Promotion.*” The resolution is attached as Appendix A. Historically, the funding for state tourism marketing and promotion has always flowed through the State’s Department of Business, Economic Development and Tourism (hereafter DBEDT) to the private, non-profit Hawaii Visitors and Convention Bureau (HVCB). The State and HVCB have been in business together since statehood. The 1959 Annual Report for the EPCA, (the predecessor of DBEDT) reported a jointly funded project that displayed the modern image of Hawaii to the mainland United States. The transition of this private-public association can be seen in the development of the funding arrangements. The jointly funded project of \$25,000 in 1958 that promoted both the economic opportunities available in Hawaii and the vacation possibilities has ballooned into the current \$25 million allocated by the State strictly for marketing and promotion of tourism.

### Background

In two short generations, Hawaii has seen tourism take control over the economic prosperity of the State. Tourism has been the number one industry in the State since 1976 when income from visitor expenditures surpassed United States Department of Defense spending in Hawaii.<sup>1</sup> The State’s involvement with tourism development has always been directed by the Department of Business, Economic Development and Tourism or its predecessors. In 1990, declaring the visitor industry as “the most important sector of Hawaii’s economy,” the Legislature elevated the status of the State Tourism Office to a statutorily created program managed by a deputy director.<sup>2</sup> Additionally, the Tourism Marketing Council was set up in the same Act to incorporate industry opinions into the state tourism marketing process. Four years later, the State pared back the number of all deputy directors and the Tourism Office ended up with a professional staff of seven which is now headed by a program manager.<sup>3</sup> In 1996, the Tourism Office was tossed one more rung down the ladder when the State Office of Planning was transferred to DBEDT.<sup>4</sup> While it may not have been intentional, this final transfer put the office, which is in charge of the “most important sector of Hawaii’s economy”, another step away from direct leadership contact. The Tourism Marketing Council continues to meet

---

<sup>1</sup>Department of Business Economic Development and Tourism *Data Book 1991*, p. 335. *See also*: Department of Business Economic Development and Tourism, *Hawaii’s Economy, A Quarterly Report from the Department of Business, Economic Development & Tourism*, “The Economic Impact of Tourism in Hawaii: An Application of the Hawaii Input-Output Model”, First Quarter 1996, Honolulu, p. 5 (hereafter DBEDT Input-Output Model). *See also* World Travel & Tourism Council, *Travel & Tourism and Hawaii’s Economy Impact and Perspective Millennium Vision, 1997*, London; Belgium; New York; Hong Kong; p.11 (hereafter “WTTC Impact”).

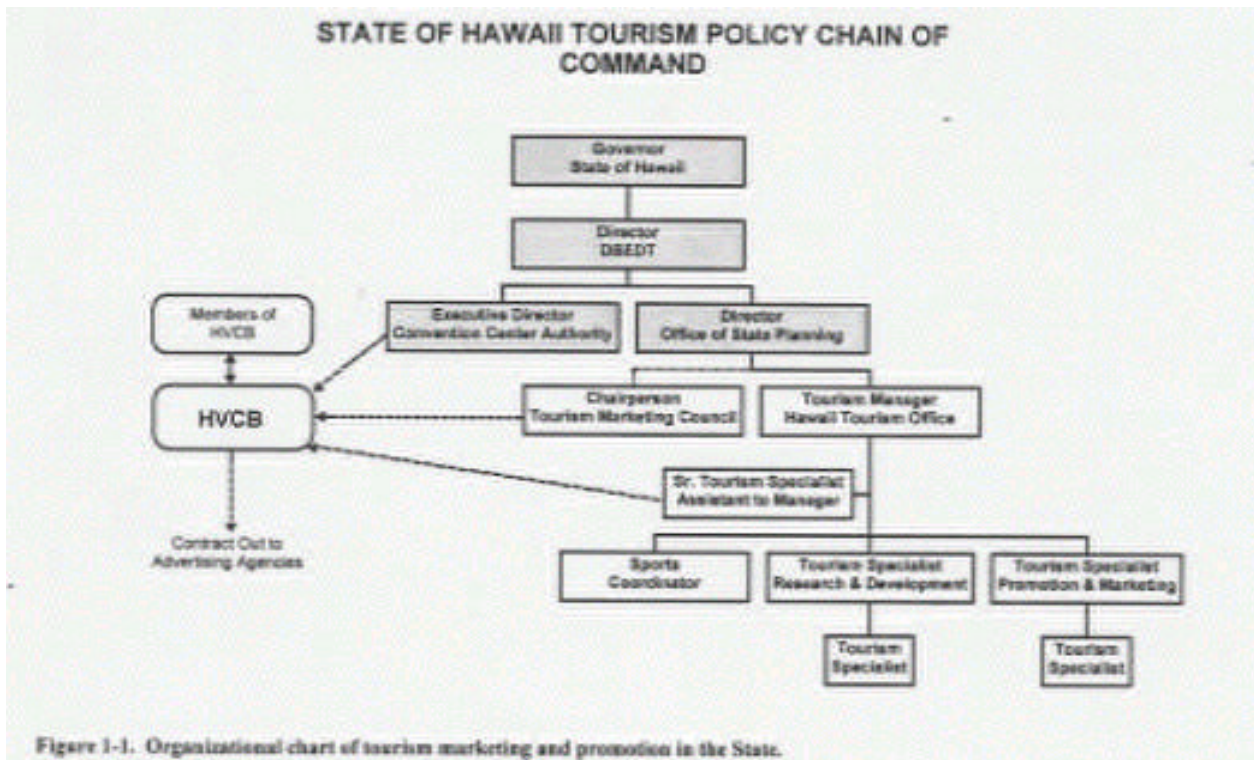
<sup>2</sup>Act 293, Session Laws of Hawaii 1990.

<sup>3</sup>Act 223, Session Laws of Hawaii 1994.

<sup>4</sup>Act 299, Session Laws of Hawaii 1996.



and operates as a negotiator with the HVCB in establishing the major marketing contract with the State. The current organizational structure is depicted in Figure 1-1.



The funding of the HVCB marketing contract has increased dramatically over the years. The graph in Figure 1-2 shows the State Appropriations to HVCB for marketing, promotion and research.

The amounts presented in Figure 1-2 reveal a dramatic rise in tourism funds spent by the State, yet if we change the point of view and look at the amounts appropriated by the Legislature to HVCB as a percentage of general excise tax revenues, the graph is not as dramatic. See Figure 1-3.

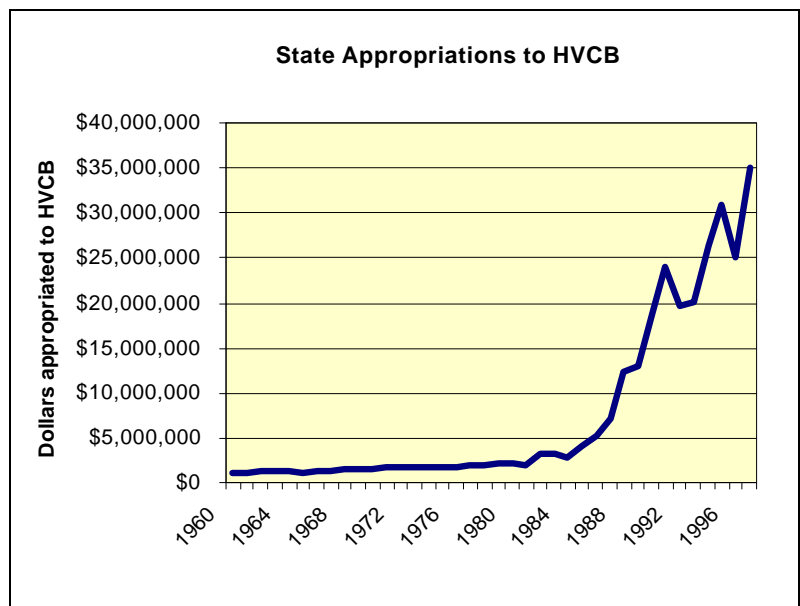


Figure 1-2. State appropriations to HVCB over the years.

The graph in Figure 1-3 reveals that over the years the State has on the average appropriated approximately 1.15 per cent of the general excise tax revenues for the fiscal year for tourism marketing and promotion. Documentation for these figures is in Appendix B.

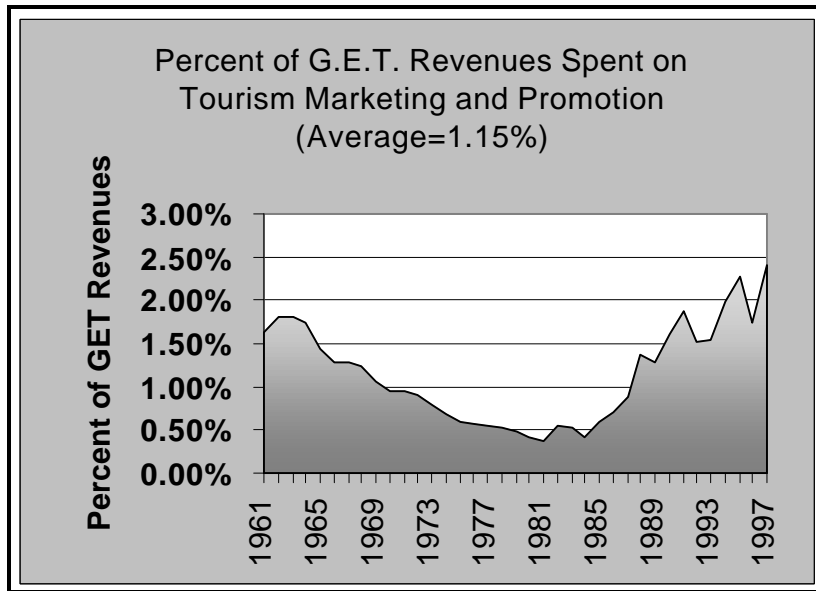


Figure 1-3. State appropriations to Hawaii Visitors Bureau as a percentage of general excise tax revenues.

Naturally, players from both private industry as well as the public sector are intimately involved in the industry that provides a large percentage of jobs<sup>5</sup> and brings billions of dollars in revenue into the State.<sup>6</sup> Private entities also contribute to HVCB's marketing effort for the State. The private portion funds has been attributed to membership dues over the years. However, with membership in HVCB dwindling, the membership subscription revenues has not kept pace with State

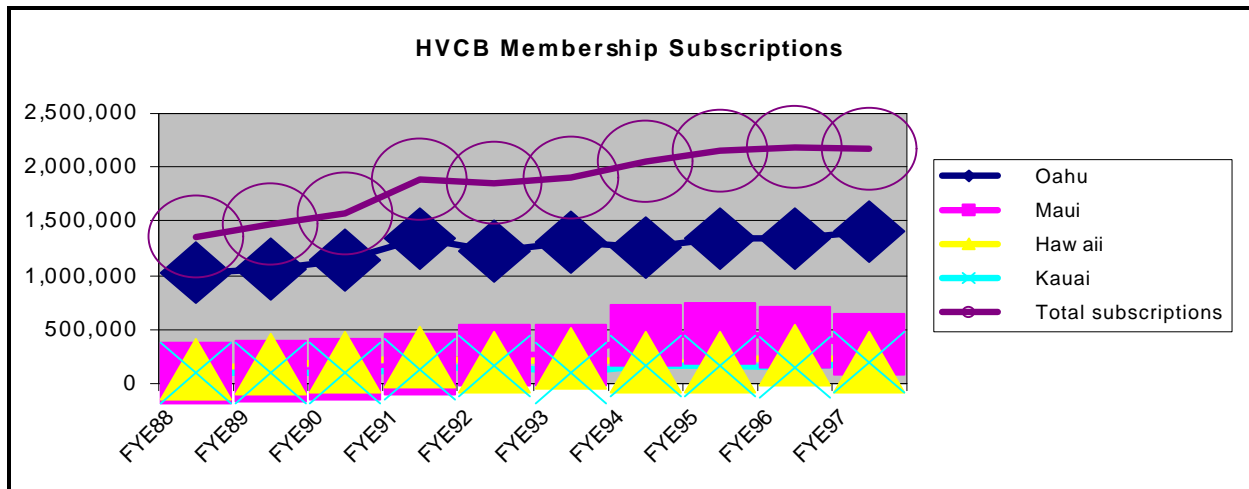


Figure 1-4. Membership subscription revenues from members by county over the last ten fiscal years from fiscal year ending 1988 to fiscal year ending in 1997.

<sup>5</sup>The number of jobs provided by tourism has been estimated to be 4 out of every 10 civilian jobs by HVCB in their Quarterly Review for Fiscal Year 1994-95, October, November, December and 31.3% of the workforce by the WTTC. See Note 1, WTTC Impact, p. 6.

<sup>6</sup>DBEDT estimates that spending by visitors totaled over \$11 billion. See Note 1, DBEDT Input-Output Model; WTTC estimates travel and tourism will produce \$9.8 billion of gross output in 1997. See Note 1, WTTC-Impact, p. 5; HVCB reported estimates of approximately \$10.6 billion in visitor expenditures in Quarterly Reviews for Fiscal Year 96-97, as part of their cost/benefit analysis. HVCB figures are based on the average of 1996 U.S. per-person-per-day ("PPPD") spending of \$137.62 and Japanese PPPD spending of \$293.52 times total visitor days. PPPD rates are from *Hawaii Visitors & Convention Bureau's Market Research Flash*, "Preliminary Visitor Expenditures Calendar Year 1996," Honolulu: May 14, 1997.

appropriations over the years. Figure 1-4 shows the membership subscription revenue from each island to the HVCB budget over the last ten years.

One final point about the current funding of tourism marketing and promotion is to distinguish between funds available to the State Tourism Office and those designated by the Legislature for contract to HVCB. This is an important distinction because funds specified for HVCB use are used only for marketing, promotion and research, and except for contract provisions the State has little control over how these funds are spent. Further, funds allocated to the HVCB are not subject to the procurement code. Figure 1-5 shows amounts allocated to HVCB and the State Tourism Office that make up the total amounts appropriated for tourism by the Legislature over the years.

**Methodology**

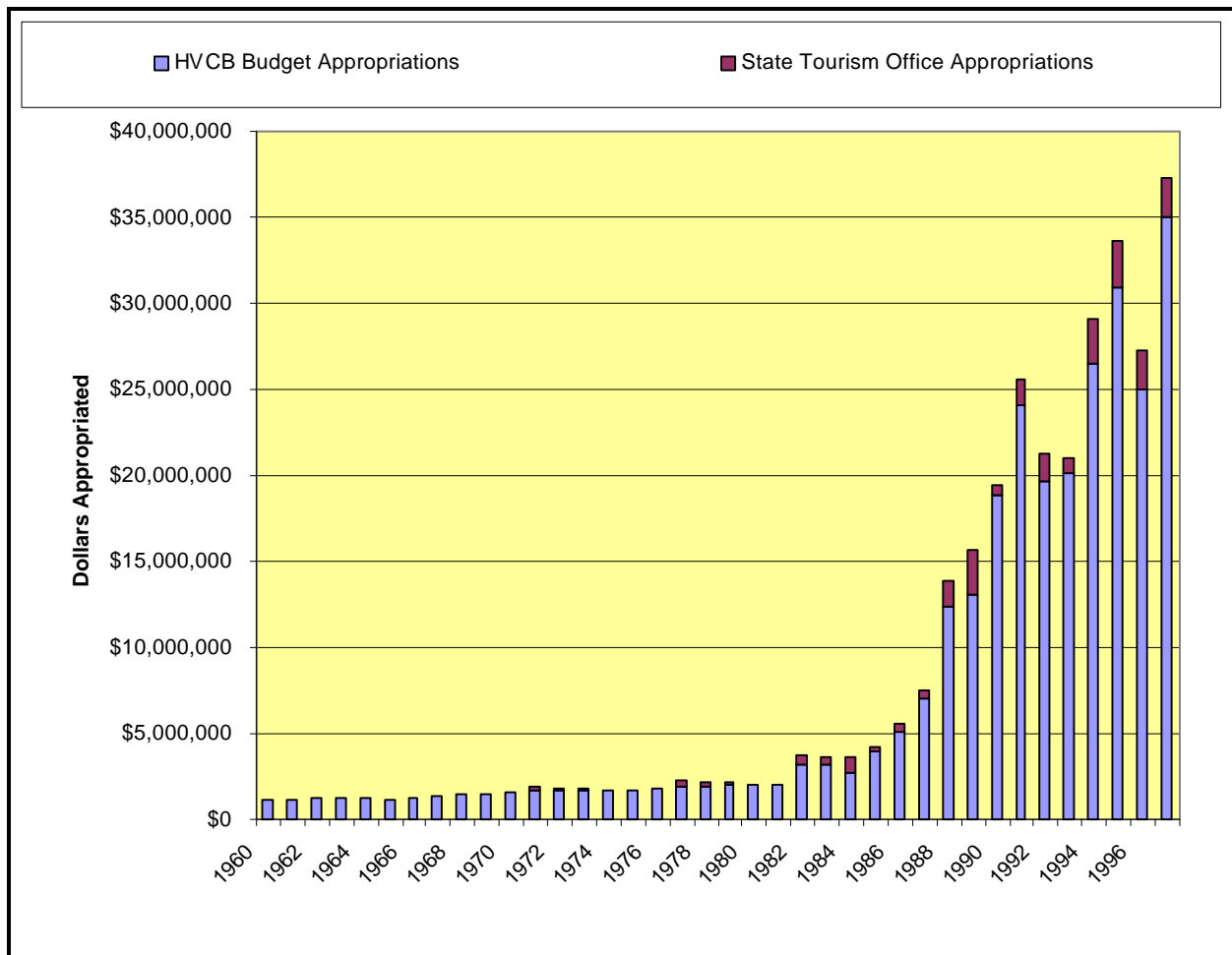


Figure 1-5. State appropriations to HVCB and State Tourism Office each year.

Senate Resolution 124, S.D. 1, makes several requests of the Legislative Reference Bureau. In order for the Bureau to make any findings and recommendations, we felt it imperative to have an understanding of the current operations of the state tourism structure. Approaching tourism from the aspect of roles assists in sorting out essential responsibilities of the different players in the industry and in clarifying the most efficient operation for the State in funding tourism promotion. The roles

of promoter, policymaker, regulator, researcher, educator, service provider, and developer can intersect or overlap, and sometimes appear to even compete from private and state perspectives.

Tourism is also dependent on markets. A target market is usually expressed by its characteristics, for example geographic, demographic, developing, or mature. Markets are not static. Recent trends indicate that the Japanese visitor market, formerly a developing market is becoming a mature market due to the increase in repeat visitors.<sup>7</sup> Historically, one of Hawaii's most reliable markets has been visitors from the geographic regions of the west coast mainland United States.<sup>8</sup> An example of a new developing, demographic market that might exist for Hawaii are same-gender couples wishing to marry--but this is pending certain legal actions. Selecting the markets to pursue is critical to the type of development that the State experiences. The public sector and private players may have different target markets depending on their goals. Tourism policy defines which markets to target: eco-tourism, health, sport, Korea, etc.. Identifying the market in any tourism promotion is an essential component of the success of a promotion. The promotion must appeal to the characteristics of the target market. Appealing to the defined target markets is the cornerstone of whether tourism policy is successfully implemented.

Measuring the results of tourism marketing and promotion programs is a difficult process. The results of marketing and promotion studies will often depend on many uncontrollable external factors. For example, the economy of the target market, or an act of God, like Hurricane Iniki, will affect the results of any promotion or marketing campaign. DBEDT has experimented with assorted regression model calculations and HVCB contracts have included funding conversion studies but none have provided definitive answers to whether or not funds spent on certain marketing and promotion campaigns have been effective. This does not mean measurements cannot be used to determine accountability for funds. Other states have used specific evaluation measurements that are built into the programs and relate directly to the proposed goals. These are limited measurements but can assist a State in determining the value of funds spent on tourism marketing and promotion.

Focusing on these components of tourism, this study explores how different funding options either help or confound existing gaps in the current structure. Chapter 2 looks at the current structure and operation of tourism in the State. Chapter 3 reviews how other States handle tourism promotion. Chapter 4 examines the non-funding issues of legislative ideas presented during the 1997 regular session of the Legislature to determine whether they are compatible with the State's needs. Chapter 5 evaluates the direct funding issues as presented in previous legislation. Finally, Chapter 6 presents findings and recommendations. Sample legislation is attached as Appendix G.

---

<sup>7</sup>DBEDT reports that in 1950, 75% of all visitors were first-timers. In 1994, only 34% of all visitors were first-timers. See Note 4, p. 3, 1997 year-to-date statistical break downs of first-timers to repeat visitors in the Japanese market, 55.5% for first-timers and 44.6% of repeat visitors are moving in the direction of the Westbound market, considered mature at 37.1% first-timers and 62.9% repeat visitors. Hawaii Visitors & Convention Bureau Market Research, "Preliminary July 1997 Highlights" August 25, 1997, pp. 9, 11.

<sup>8</sup>Department of Business Economic Development and Tourism, *Hawaii's Economy, A Quarterly Report from the Department of Business, Economic Development & Tourism*, "Hawaii Tourism in Transition", First Quarter 1996, Honolulu, p. 2.

## Chapter 2

### THE STATE AND TOURISM

#### General Overview

Senate Resolution No. 124, S.D. 1 requested the Legislative Reference Bureau (“Bureau”) to present funding options for tourism promotion. In order to accomplish that goal, it is essential to understand the overall picture of how tourism operates in this State. Necessarily, the players must be identified, their roles defined, as well as what markets are served, and when and where this is all accomplished. This report explores these concepts as they relate to each of the players. The public sector is reviewed first. Second, this chapter looks at the operation of Hawaii Visitors and Convention Bureau, the prime contractor with State for tourism promotion. Finally, this chapter examines how they all fit together and where improvements are needed.

#### State Government

Part VII of Chapter 201 of the Hawaii Revised Statutes defines the structure of state tourism program operations within the Department of Business, Economic Development and Tourism (DBEDT) by delegating the authority to the Office of Tourism, which is a division within DBEDT. Powers and duties of the Office of Tourism are broadly stated in a laundry list of responsibilities.<sup>1</sup> These provisions loosely define the Office of Tourism’s roles as promoter, policymaker, coordinator, researcher, educator, regulator and developer. The law also establishes the Hawaii Tourism Marketing Council (hereafter “Marketing Council”) as an advisory board to the Office of Tourism, to review and make recommendations for marketing and promotion programs.<sup>2</sup> Additionally, the Tourism Development Law, Chapter 203, Hawaii Revised Statutes, governs marketing and the State’s relationship with the Hawaii Visitor’s and Convention Bureau (“HVCB”).

The most obvious responsibility for the Office of Tourism is promoting and marketing the tourism industry.<sup>3</sup> Promoting and marketing Hawaii is primarily done by a contract with the HVCB and is discussed in more depth below, but before the State can promote or “sell” Hawaii, it must set policy.

---

<sup>1</sup>Section 201-93, Hawaii Revised Statutes.

<sup>2</sup>Section 201-94, Hawaii Revised Statutes.

<sup>3</sup>Section 201-93(1), Hawaii Revised Statutes.

## Policymaker

The law charges the Office of Tourism with “developing, coordinating, and implementing long-range state policies and directions for tourism and related activities including the updating of the state tourism functional plan.”<sup>4</sup> The State Tourism Functional Plan (hereafter “Functional Plan”) is based on the guidance provided by the overall state plan in Chapter 226, Hawaii Revised Statutes. The visitor industry is specifically addressed in section 226-8, Hawaii Revised Statutes. The Functional Plan is, statutorily, the document that dictates long-range state policies. Ironically, this 1991 document states that the “State Functional Plans delineate specific strategies of policies and priority actions that need to be addressed in the short term.”<sup>5</sup> The plan’s overall theme is balanced growth, addressing resource management, resource development, and infrastructure and service supports. The six defined topics of concern include: Growth; Physical Development; Environmental Resources and Cultural Heritage; Community, Visitor and Industry Relations; Employment and Career Development; and Marketing.

The functional plan states specific objectives for the economy in the visitor industry, provides policies and specific actions that include budget estimates for the 1991-93 fiscal biennium as required by statute.<sup>6</sup> It is a comprehensive document spearheaded by the Office of State Planning and incorporates actions of several departments in achieving the objectives for the visitor industry. Unfortunately, the plan has not been updated since 1991. Dramatic changes in the visitor industry since 1991, such as Hurricane Iniki, and a failing Japan economy, question the current validity of the 1991 plan. A more recent document, the Hawaii Strategic Tourism Plan (hereafter “STP”), is similar but not as detailed or complete.

The current STP was developed in 1994 by the Office of Tourism and the Marketing Council as a draft for presentation to the public at the 1994 Hawaii State Tourism Congress and to prepare for the first-ever White House Conference on Travel and Tourism in Washington, D.C. in 1995. The STP adopted the White House Conference framework. Although the STP is still considered a draft and incomplete, it is used as the working document on tourism policy by the Office of Tourism and the HVCB.<sup>7</sup> Compare the STP nine categories of focus to the Functional Plans’ five categories:

---

<sup>4</sup>Section 201-93(2), Hawaii Revised Statutes.

<sup>5</sup>Department of Business, Economic Development and Tourism, *Hawaii State Plan Tourism State Functional Plan 1991*, Honolulu, 1991, p. 1.

<sup>6</sup>Section 226-8, Hawaii Revised Statutes.

<sup>7</sup>The first Tourism Strategic Plan developed by Grant Thornton in November 1987 had a more limited focus, covering only marketing and promotions. This has evolved to a more encompassing document. See Management and Financial Audit of the State Tourism Office, Department of Business and Economic Development, Report No. 89-2, Office of the Auditor, Honolulu, Hawaii, January 1989, p. 6-7.

**TABLE 2-1  
COMPARISON OF FOCUS BETWEEN STATE  
STRATEGIC TOURISM PLAN AND FUNCTIONAL PLAN**

STP	FUNCTIONAL PLAN
Product Development	Growth
Technology	
Facilitation/Reduction of Barriers	
Research	
Promotion	Marketing (including Research)
Infrastructure Development	Physical Development
Education/Training	Employment and Career Development
Environmental Concerns	Environmental Resources and Cultural Heritage
Community, Visitor and Industry Relations	

The STP states that it is meant “to guide the development of the state’s visitor industry.”

The STP and the Functional Plan are both good policy documents. Where they fall short is in their relation to the ongoing process of tourism planning in the State. The Functional Plan is out-of-date and the STP is incomplete. Additionally, further development or review of these plans appears to be non-existent. Regardless of the plans’ shortcomings, each defines balanced growth as an overall goal and identifies specific areas of attention to achieve that goal. Reflecting the statutory guidelines, the policies stated in both plans articulate the need for the State to play more than the one role of promoter.

Statutorily, the duty of updating the policy of tourism, rests on the shoulders of the Office of Tourism. The law articulates one of the powers and duties of the Office of Tourism as being “developing ...long-range state policies and directions for tourism.”<sup>8</sup> The law does not provide any additional guidance in setting tourism policy. Operationally, the Hawaii Tourism Marketing Council meets and reviews issues but does not appear to be actively involved in the formulation of an overall plan beyond marketing.<sup>9</sup> While the Bureau recognizes the expertise of the staff in the Office of Tourism, the existing statutory process of policymaking excludes the input of critically important views of both the elected public representatives and the industry. This vague and ambiguous policy-

---

<sup>8</sup>Section 201-93, Hawaii Revised Statutes.

<sup>9</sup>See the Minutes of the Hawaii Tourism Marketing Council, January 9, 1997; February 6, 1997; March 14, 1997; May 22, 1997.

making, that is subject to modification as it proceeds up the ranks for approval and funding, does not provide the confidence, authority, or leadership for the essential task of setting tourism policy.<sup>10</sup> This is the breeding ground for the lack of definitive tourism policy in the State.

The Office of Tourism has looked to the Marketing Council for assistance in the policy area although the law limits the Marketing Council to reviewing “state tourism marketing and promotion programs ...[t]he five-year tourism marketing plan, including its market segmentation and long-range targeting aspects.”<sup>11</sup> The Marketing Council focuses on the negotiations with Hawaii Visitors and Convention Bureau contract in order to mesh the current year legislative funding including all provisos<sup>12</sup> tied to the current year appropriation with current marketing state policy. This assistance in the marketing area by the Marketing Council, while helpful, does not provide the leadership strength to handle the many other areas of tourism policy that are neglected. The neglect in these other tourism policy areas is particularly obvious in the funding of the Office of Tourism. The Legislature typically allocates the lion’s share of funds to marketing programs with the HVCB. The lopsided funding is compounded by imposing additional provisos that further disrupt any short- and long-term tourism policies in place. Reviewing the last ten years, funds allocated to tourism policy areas other than marketing, promotion and research compared to those allocated by the Legislature for marketing and promotion are depicted in Figure 2-1.

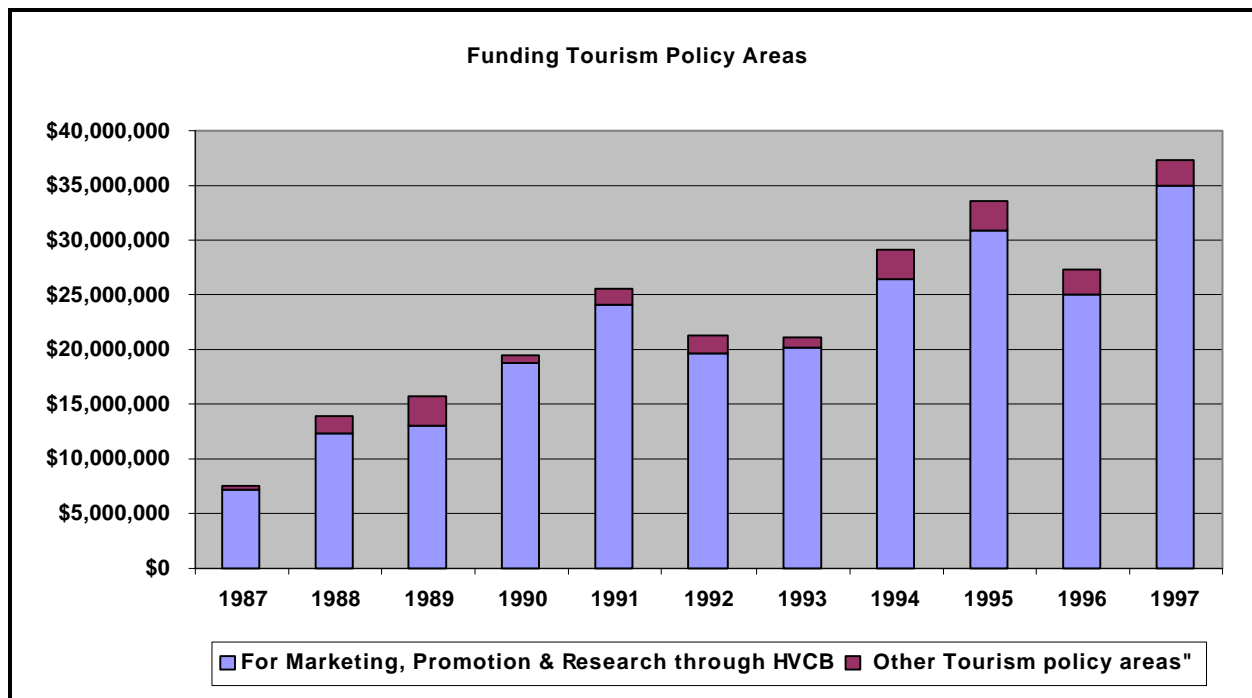


Figure 2-1. Funding tourism policy areas.

<sup>10</sup>“The advisory council needs “enough clout” for the next administration.” Hawaii Tourism Marketing Council, May 22, 1997.

<sup>11</sup>Section 201-94, Hawaii Revised Statutes.

<sup>12</sup>Funding of tourism development by the Legislature has included several detailed provisions regarding minimum and maximum amounts to be allotted to specific programs. For example, the 1995-97 biennium budget included specific amounts for the NFL Pro-Bowl, Honolulu Marathon, Senior Skins Golf Tournament, Winter League Baseball and Hawaii International Film Festival, among others. Some of the provisos included a requirement that the state funds be matched by private contributions.



Overall tourism policy would benefit from the Legislature providing input into the policy formulation and review process so that funding would follow policy directives. Restructuring the policy process to involve both the public and private sector in developing and reviewing the STP or the Functional Plan would provide a more cohesive approach to funding tourism. The participation of public leadership in setting policy would provide the authority needed for positive development of the number one industry in the State.

## **Developer**

The law acknowledges that the State has a responsibility to develop tourism.<sup>13</sup> The development of tourism is a complicated task that must incorporate the cooperation of many state agencies, the visitor industry and the local resident community. Obviously, all development is dependent on policy driven goals and objectives. Under the law, the State's efforts in the development of tourism are driven from the Office of Tourism.

The Office of Tourism looks at the development of tourism as the “supply” side of their tasks. Developing plans that include “new products” for Hawaii's visitor industry, which can run the gamut from new attractions like a new aquarium, a water park, new eco-tourism programs, health or sports related visits to community support programs, and providing necessary infrastructure for the program. The development process is dependent on many other agencies. These plans are theoretically, then passed up the ranks through several supervisory levels before they are presented to the Legislature in the Governors' budget. (See the Figure 1-1 in Chapter 1.) Without the support of top-level leaders many of these plans are not funded. Funding usually determines the progress these plans make towards implementation.

This organizational structure makes many of the programs which are funded difficult to coordinate. If a program is essentially located in a different department, for example health programs in the Department of Health or infrastructure issues in the Department of Transportation, or water activities in the Department of Land and Natural Resources, the communication and authorization process must formally travel up, across and down the organizational chart. This often results in Departments working in isolation from or without the support of the Office of Tourism. For example, the Department of Land and Natural Resources has developed an educational exhibit concerning the conservation of resources in Hawaii, along with a small shop of trinkets right alongside the consolidated permit office on the first floor of the Kalanimoku Building. A one-stop shop for residents and visitors alike that provides valuable information and education, certainly a valuable visitor industry site that both the State Office of Tourism and the HVCB were unaware existed. This situation could be improved by simplifying the structure of tourism operations that would allow the development of tourism to operate more efficiently in coordinating the diverse tourism opportunities the State has to offer the industry.

---

<sup>13</sup>Section 201-93, Hawaii Revised Statutes.

## Educator

The Office of Tourism is also required to provide technical or other assistance to agencies and private industry, establish a public information and educational program to inform the public of tourism and tourism-related problems and encourage the development of educational training, and career counseling programs in tourism.<sup>14</sup> In other words, the Office of Tourism must be a resource center or educator for both the local population and visitors, as well as the visitor industry. Once again, the task at hand is a matter of the coordination of several other state departments and agencies. The University of Hawaii's School of Travel Industry Management provides educational opportunities at both the bachelor's and master's degree levels. Students may focus their studies in one of four designated areas, tourism, transportation, hotel management or restaurant management. The community colleges also provide two-year associate-level educational opportunities in similar areas.

The Department of Labor and Industrial Relations had initiated, through the now defunct Tourism Training Council,<sup>15</sup> several training programs aimed at the current industry workforce.<sup>16</sup> These accomplishments were made possible by isolated grant money and have never had the luxury of stable funding. The Department of Transportation staffs the Visitor Information Program (VIP) at the airport which distributes information at various kiosks statewide at all airports (except for Lanai) and at harbors. The VIP also administers a free brochure distribution service for any business that applies and meets the criteria. The VIP also handles protocol for the Governor's office. On a more focused level, the Department of Land and Natural Resources maintains a resident and visitor facility on the first floor of the Kalanimoku Building that provides one-stop shopping for permits and information about Hawaii's beaches, parks, hiking trails, hunting, fishing and other nature related activities. The DLNR also maintains an on-site, museum-quality exhibit on conservation, protection and other environmental issues in Hawaii. Finally, the HVCB also staffs a visitor information center on the fourth floor of the Royal Hawaiian Shopping Center where it distributes information and brochures related to its membership.

The research component of the educator role may statutorily be contracted to outside sources.<sup>17</sup> Research is accomplished through contracts with University of Hawaii and through HVCB and its marketing contracts. This part of the educator role is an appropriate item for outsourcing; provided the Office of Tourism can articulate their needs and the research conducted is reported in a useful, timely, and clear form. Earlier reports from the Auditor criticized the amount of useable information in reports from the HVCB.<sup>18</sup> Reports from the HVCB have been more regular since these unfavorable reviews by the Auditor, but still do not appear to assist in evaluating

---

<sup>14</sup>Section 201-93 (5), (6) and (7), Hawaii Revised Statutes.

<sup>15</sup>Repealed in Act 346, Session Laws of Hawaii 1997.

<sup>16</sup>Commission on Employment and Human Resources Tourism Training Council, *1997 Report to the Governor on Employment and Tourism Training*, Department of Labor and Industrial Relations, 1997.

<sup>17</sup>Section 201-93 (4), Hawaii Revised Statutes.

<sup>18</sup>Office of the Auditor, *Management and Financial Audit of the Hawaii Visitors Bureau*, (Honolulu), Report No. 93-25, December 1993; and Report No. 87-14, February 1987.

whether or not the tourism policy of the State is being carried out. It is hard to find blame for why these reports fail to provide the necessary information to evaluate whether the State is getting a reasonable return for their investment. The Office of Tourism agrees that the HVCB reports *do* meet the minimum requirements of the contract with the State, but the contract does not articulate precise parameters of evaluation. This may be due to the lack of a definitive tourism policy discussed above. Clear evaluation methods for each goal related to tourism policy would assist in determining if the State has met its objectives. The State of Montana has implemented an excellent tourism plan that includes an evaluation mechanism for each marketing plan. Looking at the overseas marketing aimed at Western Europe and the Pacific Rim, for example, Montana measures its visibility in these markets by: (1) looking at the increase in itineraries of international operators provided by their collective marketing group, Rocky Mountain International; (2) tracking the level of interest of consumers and trade representatives in overseas target markets; and (3) monitoring changes in travel expenditures of overseas visits.<sup>19</sup> See excerpts from the Montana Plan in Appendix C. Another example in the Montana Plan relates to their U.S. & Canadian Publicity which is targeted at obtaining editorial exposure as opposed to paid advertisements. This program is evaluated by estimating the dollar value of the publicity. Each publicity item is valued as the cost for a similar amount of advertising space in the same medium.<sup>20</sup>

Many visitor industry programs involve different departments and agencies with a designated focus that may overlook aspects of the program that are important to the State, the community and the industry. The statutes recognize the State's role in coordinating these efforts to maintain efficiency.

## **Coordinator**

The Office of Tourism is responsible for acting as coordinator of the various programs that exist throughout the State and to integrate these programs with those in the private industry.<sup>21</sup> The State has had some success supporting and integrating industry programs, especially in the area of sports promotion. Sports promotion in the State has often received the attention of the legislators with specific provisos included in the tourism marketing budget requiring private matching funds.

In addition the Office of Tourism is directed to establish and maintain a visitor impact management system.<sup>22</sup> This requires the Office of Tourism to maintain an active line to the pulse of the community at large, analyze their concerns, determine areas of offense and devise solutions to these specific concerns. This necessarily requires the coordination of the community concerns, and both the private industry activities in addition to any state and other public programs that may

---

<sup>19</sup>Tourism Advisory Council, Tourism and Film Marketing Plan, 1996-1997, Travel Montana, Montana Department of Commerce, p. 23.

<sup>20</sup>Ibid, p. 21.

<sup>21</sup>Section 201-97, Hawaii Revised Statutes.

<sup>22</sup>Section 201-96, Hawaii Revised Statutes.

exist. There has not been sufficient development of the visitor impact management system due to insufficient staffing and funding to evaluate the system at this time.

## Regulator

The law also requires the Office of Tourism to act as a regulator by “[e]stablishing a program to monitor and investigate complaints about problems resulting directly or indirectly from the tourism industry and taking appropriate action as needed.”<sup>23</sup> The Office of Tourism can and does receive complaints. The law also requires the HVCB to report all complaints received to DBEDT.<sup>24</sup> Although, there is a mechanism in place to receive complaints, there is no statutory guidance for handling their resolution within the DBEDT. There are no penalties to invoke because no statutory tourism industry standards exist beyond basic unfair and deceptive trade laws,<sup>25</sup> and hotels limited liability law<sup>26</sup> administered by the Regulated Industries Complaint Office and the Office of Consumer Protection in the Department of Commerce and Consumer Affairs (hereafter “DCCA”).

The Department of Labor and Industrial Relations has implemented a voluntary certification process for tour drivers and guides. The program has grown from one entry level certification process to separate certifications for each island and an advanced tour driver/guide certification. These programs are carried out and administered by the community colleges. This is the first step in establishing standards and should be pursued.

A temporary program is in place to regulate activity providers and activity desks through the DCCA. Activity desks act as an intermediary between visitors and the activity providers. The regulatory law was enacted in 1990 to provide protection primarily to the activity providers who were paid by the activity desks.<sup>27</sup> The law was amended in 1991<sup>28</sup> and again in 1992<sup>29</sup> to incorporate stronger restrictions, require registrations, and establish criminal penalties. The DCCA reports that most complaints brought under this law have, until this year, either been initiated by DCCA staff to require registration of the business or by an activity provider initiating action against an activity desk. In 1997, consumers for the first time led the list of complaints filed with six complaints filed, while businesses had filed only three and DCCA staff had initiated five cases for registration. This law is due to sunset in June 1998.<sup>30</sup> While it is difficult to draw conclusions of the effects of this

---

<sup>23</sup>Section 201-93(8), Hawaii Revised Statutes.

<sup>24</sup>Section 203-2 (1), Hawaii Revised Statutes.

<sup>25</sup>Chapter 481B, Hawaii Revised Statutes.

<sup>26</sup>Chapter 486K, Hawaii Revised Statutes.

<sup>27</sup>Act 214, Session Laws of Hawaii 1990.

<sup>28</sup>Act 240, Session Laws of Hawaii 1991.

<sup>29</sup>Act 231, Session Laws of Hawaii 1992.

<sup>30</sup>Act 174, Session Laws of Hawaii 1995.

registration requirement on the tourism industry generally, the growth in consumer complaints filed can not be ignored.<sup>31</sup>

## Promoter

Having explored all other roles, this report now returns to the State's role as promoter. As previously mentioned, the role of promoter is dependent on the tourism policy set for the State. The State's tourism policy directs the marketing and promotion of Hawaii that makes it consistent with the images the State wants to project and the directions tourism should take. When tourism policy is defined and goals and objectives have been set, marketing and promotion becomes a straight-forward activity -- a task that lends itself to the issuance of contracts through public bidding. In fact, the statute provides for the contracting out of this activity.<sup>32</sup> The statute specifically provides that the "office may contract with the Hawaii Visitors and Convention Bureau or any other visitor industry organization to perform tourism promotion, marketing, and development."<sup>33</sup> This statutory authorization to contract out promotion, marketing and development has been exercised since statehood.

## Private Sector: Hawaii Visitors and Convention Bureau

The Hawaii Visitors and Convention Bureau ("hereafter "HVCB"), previously known as the Hawaii Visitors Bureau, has been in the business of promoting Hawaii before Hawaii was even a state. Formed by a collection of business people, the HVCB has always been a private entity without any formal tie to the state government. Specifically, the HVCB is a private non-profit corporation organized under the Hawaii Revised Statutes. Its charter of incorporation states that its purposes are "to promote travelling by the public to and among all the Hawaiian Islands; to maintain a continuing interest in the well-being of visitors in Hawaii; and to acquire, take over, assume and carry on the functions and responsibilities of the existing unincorporated Hawaii Visitors Bureau to such extent as may be legally permissible." (sic)<sup>34</sup>

The relationship between the State and HVCB has been such an intimate one that often the HVCB is perceived as a state entity even by those in the visitor industry. This perception is most

---

<sup>31</sup>The Regulated Industries Complaints Office reported the following complaints since 1990:

1990:	0
1991:	0
1992:	1-Business
1993:	1-Business
1994:	6-Business; 3-Consumer; 2 Staff Initiated
1995:	7-Business; 3-Consumer; 34-Staff Initiated
1996:	5-Business; 2-Consumer; 3-Staff Initiated
1997:	3-Business; 6-Consumer; 5-Staff Initiated

<sup>32</sup>Section 201-95, Hawaii Revised Statutes.

<sup>33</sup>Ibid.

<sup>34</sup>Charter of Incorporation, Hawaii Visitors Bureau, filed April 27, 1959, as amended April 12, 1984, Department of Commerce and Consumer Affairs.

likely due to the fact the HVCB has been in business with the government since territorial days before statehood. While there is no direct exemption from the procurement code in the statute, the fact that the State has been contracting with HVCB for so many years without presenting any type of public bid suggests that the State considers the contract a sole source contract.

Chapter 203, Hawaii Revised Statutes, the Tourism Development Law, was enacted as early as 1959 and provides for the terms of the contract with the HVCB.<sup>35</sup> According to Chapter 203, the process of contract negotiation and tourism development through the HVCB was through county advisory committees.<sup>36</sup> These county advisory boards have been abandoned although the statute remains active. The terms of the contract with HVCB are now negotiated directly with the Office of Tourism with guidance from the Hawaii Tourism Marketing Council established in section 201-94, Hawaii Revised Statutes. Each county still participates in the process through a representative on the Hawaii Tourism Marketing Council.

The contract with HVCB or any other statewide tourism promotion marketing contracts are required to relate and be coordinated to the five-year marketing plan.<sup>37</sup> Statutorily, this five-year plan is implemented by the Office of Tourism,<sup>38</sup> subject to the Hawaii Tourism Marketing Council in its advisory capacity,<sup>39</sup> and should be updated annually.<sup>40</sup>

In theory, this contracting system sounds simple. Make a five-year plan and update it every year. This would allow for review of the plan, an opportunity to extend it one year at a time and fine tune the current years. Then the plan could be used to contract with the HVCB on an annual or on a fiscal bi-annual basis, matching the policy goals and objectives of the plan with programs proposed by the HVCB to meet those goals. Setting up measuring tools or benchmarks to determine if the policy goals and objectives were met and if not, why not, would be part of the plan and therefore part of the contract. This might work if the plan was generated from sources that had the support of government leadership from the beginning.

In practice, the five-year marketing plan is formulated by the HVCB for approval by the Office of Tourism with the recommendation of the Tourism Marketing Council. The five-year plan defines different markets it will approach but fails to articulate specific goals. Some specific goals do appear in early documentation of the two-year marketing plans that are the basis of the contracts that are made between HVCB and the State for marketing Hawaii. Regardless of the fact that these

---

<sup>35</sup>Act 16, Session Laws of Hawaii, 1<sup>st</sup> Special Session of 1959.

<sup>36</sup>Section 203-3, Hawaii Revised Statutes.

<sup>37</sup>Section 203-5, Hawaii Revised Statutes. Note: The statute used to require a biennial plan but was amended in 1994 to require a five-year plan in Act 67, Session Laws of Hawaii 1994.

<sup>38</sup>Ibid.

<sup>39</sup>Section 201-94, Hawaii Revised Statutes.

<sup>40</sup>Op. Cit.

initial plans have been supported by the Tourism Marketing Council, <sup>41</sup>they cannot be fully implemented for lack of funding from the Legislature. Once the level of funding has been determined, negotiations between the HVCB and the Tourism Marketing Council and the Office of Tourism attempt to prioritize and restructure marketing programs to match the level of funding provided by the Legislature and incorporate all funding provisos required by the Legislature. This is an onerous process that monopolizes much of the time the Tourism Marketing Council should be spending on developing and updating the policy itself, in order to define a document that clearly spells out the requirements of the State that can be put out for bid.

This current pattern of tourism development resembles more the tail wagging the dog than the State developing and implementing tourism policy that creates a sound marketing plan. Interpreting the statutes broadly, the current contracting procedure with HVCB is legal but it is not very efficient and essentially allows state tourism policy to be set by a private organization. This process affects the quality of the policy and the value of the marketing plan. Financially, the State may not get the most for its money. The inefficiency of the current system supports moving to financing tourism development with a dedicated source of funding. A dedicated source of funding would insure that time is not wasted formulating and reviewing marketing plans that are not funded. Available funds could be readily ascertainable and plans could be developed with set fund limitations. Marketing plans could even be subject to public bidding which would encourage competitive bidders opportunity to bid private sector contributions, whether in cooperative advertising or otherwise. Additionally, regarding substantive policy issues, the State needs to consider is what is lost when the job of deciding how to pursue tourism in the State is unconsciously given away to a private, non-profit corporation.

## **Conflict of Interest**

HVCB, as a private, non-profit organization receives dues from its membership. The HVCB also contracts with the State. The State of Hawaii is not a member of HVCB<sup>42</sup> and DBEDT is statutorily prohibited from becoming a board member of HVCB. So there is no state voice in the organizational structure and operation of the HVCB. This can result in a conflict of interest in both policy decisions and financial decisions.

HVCB must be loyal to its members. The programs it implements must be compatible with its members' programs. The make-up of the organization assures this. The State cannot be sure that the programs implemented by HVCB are best for the overall good of the State because of the allegiance HVCB must pay to HVCB members. A sweeping view of tourism marketing would write off this concern by positing that what is good for HVCB members, is good for the State. But, this may not be true. Take a closer look at the policy as stated in the State of Hawaii's Strategic Tourism Plan. Vision Statement #2 states:

---

<sup>41</sup>Minutes of Hawaii Tourism Marketing Council, April 8, 1997.

<sup>42</sup>The HVCB does acknowledge that membership dues are received from the State Division of Consumer Advocacy. The Consumer Advocate maintains a membership in order to receive statistical information contained in unpublished HVCB reports.

As a mature destination, Hawaii cannot host unlimited numbers of visitors in the future. Instead, we need to focus on the “yield” rather than “volume.” Thus we aim to embrace a quality tourism development strategy. This means attracting high spending visitors.

This seems to suggest a conflict if the HVCB wants to pursue a “Value Program” that appeals to lower end consumers which is a “volume” goal instead of “yield” goal. Reports always focus on the number of visitors to Hawaii and not the “quality” of the visitor.

A conflict of interest also appears in the financial arena when state funds are mixed with private funds. Some of these issues are handled by accounting for private and public funds separately. HVCB collects subscription dues from its members and receives income from co-op advertising, and receives in-kind contributions. The breakdown of income to HVCB over the years is depicted in Figure 2-2. The sharp increase in private contributions in 1995 can be attributed to accounting changes that included counting in-kind contributions and cooperative advertising as private contributions. In 1997, including these amounts as private contributions brings the balance of private and public funds closer to equal. General grumbling about how the amount of private contributions has been decreasing may not be accurate if the private contributions that are brought in through co-op advertising are considered. It is difficult to disregard these cooperative amounts that are paid towards marketing Hawaii as a destination in combination with state funds because cooperative advertising dollars are voluntary contributions that assist the State in reaching broader markets.

Expenses of HVCB are detailed into thirteen budget areas including: (1) marketing-Honolulu; (2) sales and marketing (US, Canada, Europe, and Latin America) New York; (3) market research; (4) publications/marketing services; (5) public communications; (6) Asia/Pacific; (7) meetings and conventions; (8) island chapter sales and marketing; (9) administration and finance; (10) corporate; (11) membership; (12) provisos; and (13) in-kind donations. While it is perfectly acceptable to attribute salaries and operating expenses to each detail area it is hard to determine what kind of figures are spent exclusively on marketing versus other areas, like administration and operating expenses. The Bureau rearranged the budget items to look at a different perspective of spending at the HVCB. The pie chart in Figure 2-3 shows the total HVCB budget for fiscal year 1996-1997.<sup>43</sup> The pie charts in Figure 2-4 and Figure 2-5 illustrate how the state portion and private portion of those funds are disbursed. The documentation for these charts is attached as Appendix D. Reviewing the numbers in this format reveals an unbalanced distribution of private and public funds across the different programs. Comparing the State's distribution of funds for marketing Hawaii as a visitor destination through HVCB in Figure 2-4, to the total expenses of HVCB in Figure 2-3, there is a noticeable similarity in distribution. This is not true when comparing, the distribution of private contributions for marketing Hawaii as a visitor destination through HVCB depicted in Figure 2-5.

The largest difference between the state funds and the private sector funds allocated can be seen in the publications area. Although only eight percent of the total budget was allocated to publications, the private contribution to this area was thirty-four percent of the private contributions,

---

<sup>43</sup>All amounts in Figures 2-3, 2-4, and 2-5 are drawn from Attachment J-1 of the State of Hawaii Supplemental Agreement Relating to Negotiated Agreement for Services between DBEDT and HVCB dated April 4, 1997, that supplements Agreement No. 39963, dated July 1, 1995.



while the state contribution was not enough to even register as whole percentage point. Not to be misleading, it should be clarified that of the \$3,718,544 allocated to publications in the private sector, \$3,638,544 is recorded as in-kind donations by members.

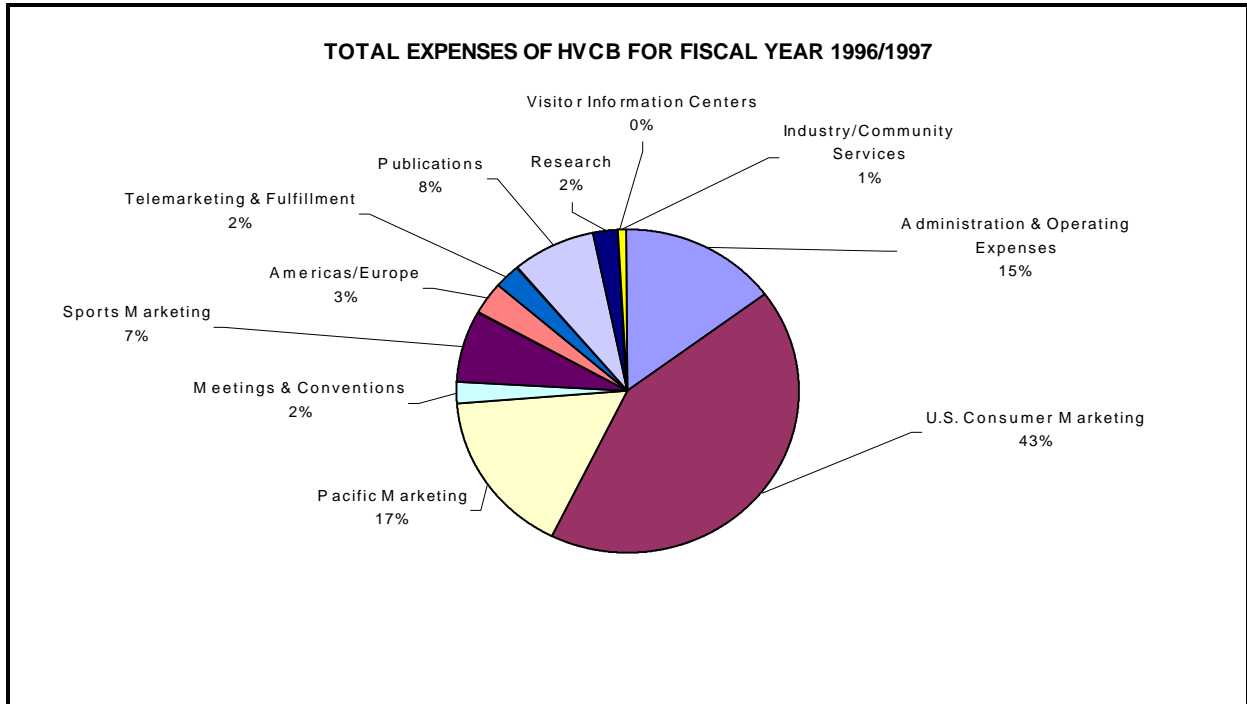


Figure 2-3. Total expenses of HVCB for fiscal year 1996/1997.

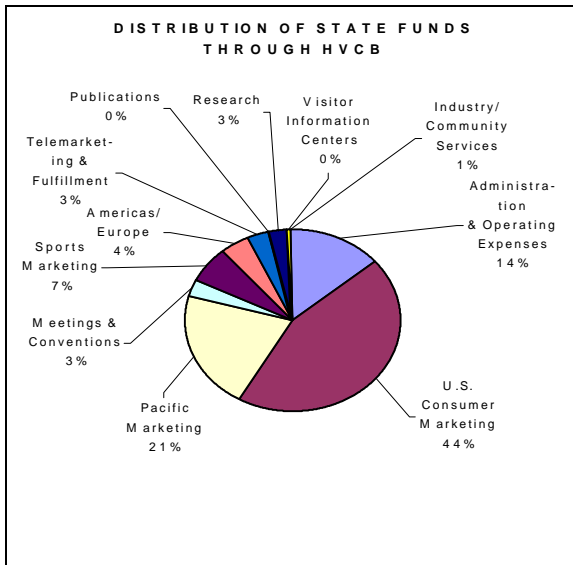


Figure 2-4. Distribution of state funds through HVCB for the marketing and promotion of Hawaii as a visitor destination.

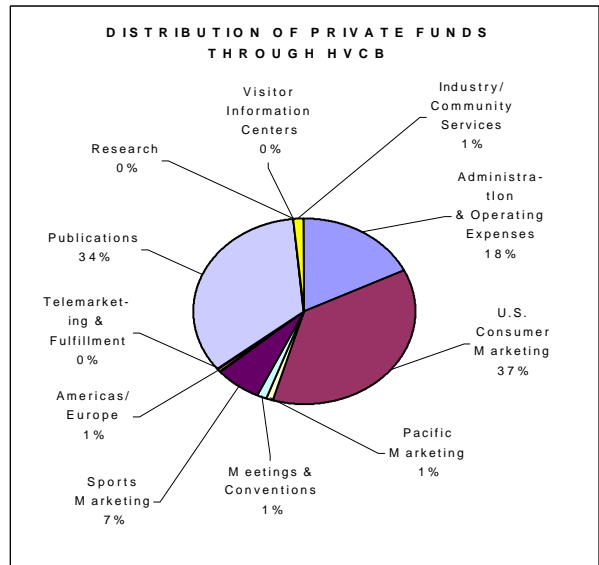


Figure 2-5. Distribution of HVCB private funds for the marketing and promotion of Hawaii as a visitor destination.

Pacific Marketing is the other area where a significant difference appears when comparing the allocation of state and private funds in the marketing and promotion of Hawaii as a visitor destination through HVCB. The one per cent of private contributions to HVCB pales in comparison to the seventeen per cent of the total budget and twenty-one per cent of the State's allocation. It should be noted that a significant portion of the private funds allocated for Pacific Marketing, as well as Americas/Europe Marketing, and Meetings & Conventions are attributed to travel and entertainment. State funds are not allowed to be used for travel and entertainment. Without these travel and entertainment expenses the private contribution would be less than one per cent. Essentially, the private sector makes little or no contribution to the State's general marketing to the Pacific and other developing markets, spending private funds on the United States market where more immediate returns are achieved.

Interestingly enough, Sports Marketing is an area that shows equal proportional contributions by both the State and private sector that match the total budget allocation of seven per cent of funds. This can be attributed to the legislative provisos requiring equal matches by the private sector before the release of state funds for golf events, canoeing events and other sports activities. Reviewing the funding data this way presents the question if the State seeks to have equally matching private funds, should private contributions be allocated similarly to the total budget percentages?<sup>44</sup>

Dispersing public funds through a private agency encourages one more opportunity for a conflict to arise when HVCB legally subcontracts to other agencies. Naturally, if HVCB must hire outside assistance, HVCB will first try to contract with its own members. If no satisfactory agreement can be met with any of its members, the HVCB will then seek to fulfill the subcontract outside the scope of its members. This provides a double benefit to membership: members are privy to specific programs funded by the State through HVCB, and members have the opportunity to directly receive state funds by virtue of subcontracting with HVCB. This legal circumnavigation of the fair and equal treatment requirements of the procurement code limits opportunity for a broader range of taxpayers to benefit from the funds dispersed through HVCB. In this instance non-members of HVCB are left out of the loop.

### **Free-riders**

Non-members of HVCB who benefit from tourism are considered "free-riders." The objection to free-riders is that they reap the benefits of tourism marketing and promotion but do not pay subscription dues like the members of HVCB. Again, we see that this idea has a flip side. Everyone pays into the system, as long as the State uses state funds for support. The state funds that are used for tourism promotion come out of the general fund. These funds are generated from a variety of resources, but close to half come from the general excise tax.<sup>45</sup> Every business in Hawaii

---

<sup>44</sup>In Figure 2-2, private contributions are reported to be approximately \$22 million for fiscal year 1996/1997 in contrast to the amounts presented in Figure 2-5, reporting only \$11 million of private contributions. This discrepancy is due to the source of the information and the method of recording cooperative advertising.

<sup>45</sup>Department of Taxation's Monthly Report of State Tax Collection and Distributions, June 30, 1997, reported total tax collections of \$3,271,641,248 of which \$1,457,274,057 was general excise tax collections.

is obligated to pay the general excise tax regardless of industry. In this regard, it can be interpreted that there are no free-riders, because everyone pays for the marketing and promotion.

In a speech and committee hearing testimony made by DBEDT Director Seiji F. Naya, it is suggested that the substantial loss in membership in HVCB is partly the cause of the imbalance of private and public funds that are spent for marketing Hawaii as tourist destination.<sup>46</sup> Membership fees in the HVCB ranges from \$250 to \$1500. If all free-riders joined at a median level of \$750, there would have to be more than 30,000 members to match the funding that the State has provided to the HVCB each year since fiscal year 1989-1990. Unfortunately, there are only a little more than 25,000 employers in the entire State of Hawaii and certainly all are not in the visitor industry. This makes mandatory membership for the current free-riders an implausible solution to balancing private contributions with public appropriations. This report previously suggested that the imbalance of funds may also be partly attributed to accounting for private contributions of cooperative advertising, and in-kind contributions which may provide another resource for private matching funds.

There are penalties suffered by those who choose to ride for free. Those that are not HVCB members are not privy to the majority of special promotions and marketing opportunities that HVCB offers to its members first. Presentation of a business in the documentation that accompanies requests about travel to Hawaii are essential to the economic success of the industry. Free-riders suffer the loss of this opportunity, and therefore cannot reap all the benefits that members of HVCB enjoy.

While the issue of free-riders has been in the forefront of what works and what doesn't work in the funding of tourism, free-riders seem to get what they pay for -- the state general fund appropriations for marketing and promoting Hawaii as a visitor destination. On the other hand, the members of HVCB pose more of an ethical problem to the State when issuing funds to a private entity to promote state tourism.

## Summary

Hawaii and tourism have a reputation that is envied throughout the world. That reputation was built on the natural beauty and unique culture of the State. Early in the development of Hawaii as a tourism destination, unbridled growth and interest masked the need for definitive policy, structure, and procedural methods to promote tourism. The structure and current operation to promote tourism have been constructed piecemeal which has resulted in a complicated and ambiguous form of policy making.

The State has an important role as a policy maker that is not being fully exercised. The authority for a large portion of this important task, within statutory guidelines, has been contracted out to the HVCB, a private entity, and should be returned to the State. HVCB, as a marketing and promotion organization, has limited goals that do not encompass the entire scope of the State's statutory responsibility to tourism development. The State's position in policy making needs to be

---

<sup>46</sup>Seiji F. Naya, "An Economic Perspective of Tourism Issues and Policies in Hawaii", originally presented at meetings with House of Representatives Policy Committee on February 22, 1996, and the Senate Tourism and Recreation Committee on March 5, 1996, p 10.

strengthened. Good policy necessarily evolves from effective leadership. The current statutes do not articulate clear policy procedures and lack strength, power and authority in leadership. Tourism policy would benefit from legislative input during the policy formulation and review process, rather than its current participation in only the funding process. Restructuring the policy process to involve state government leadership in developing and annually reviewing the overall state tourism policy plan would provide a more cohesive approach to developing tourism. Improving the State's role in the development of policy would naturally strengthen the other roles the State plays in tourism development. From this strengthened position the funding of tourism would flow more naturally.

The funding of this chaotic tourism policy reflects the same level of ambiguity and inefficiency. Marketing plans approved by the Tourism Marketing Council are not funded and legislative provisos imposed on pared down budgets present additional complications in formulating comprehensive planning. Calling for increased membership in HVCB in order to increase private contributions to tourism development and eliminate free riders does not resolve these issues because substantive control over how state funds are distributed for tourism development would still be delegated to private interests.

Ironically, while determining how the State makes appropriations for tourism appears to have little rhyme or reason, when viewed as a percentage of general excise tax the amount appropriated has varied less than two per cent in more than thirty years. This historical view implies that there has been a tacit policy of dedicating approximately one to one and half per cent of general excise tax revenues to the funding of tourism development.

Tourism development and promotion in Hawaii is an active, comprehensive endeavor that needs to be revamped. The law needs to be updated to impose authority and leadership in the policy making process while the funding process needs to be simplified to provide continuity and efficient use of the funds.

## **Chapter 3**

### **TOURISM PROMOTION AGENCIES AND COMMISSIONS IN OTHER JURISDICTIONS**

The purpose of this chapter is to present brief descriptions of the tourism promotion boards, commissions, agencies, and departments established by statute in other states.

#### **Alabama**

Tourism promotion in Alabama is the responsibility of the State Bureau of Tourism and Travel. Section 41-7-1, Code of Alabama, authorizes the Bureau to plan and conduct all state programs of information and publicity designed to attract tourists to the State of Alabama. An advisory board consisting of the Governor, the Director of Public Safety, the Highway Director, the Commissioner of Conservation and Natural Resources, and twelve members appointed by the Governor from various hotel, motel, restaurant, and other travel-related organizations provides advisory assistance to the director of the Bureau.

The law authorizes the Bureau to expend funds for advertising and promotions and for other purposes that support tourism in Alabama. The Bureau is also authorized to enter into contract agreements of not more than \$15,000 with the Southern Travel Director's Council to promote tourism in Alabama.

#### **Alaska**

Tourism promotion in Alaska is the responsibility of the Alaska State Travel Office under the Department of Commerce and Economic Development. The Office is assisted by the Alaska Tourism Marketing Council, a public corporation and instrumentality attached to the Alaska Department of Commerce and Economic Development. The Alaska Tourism Marketing Council is a joint venture between the State and the private sector. The Council consists of twenty-one members--ten members are appointed by the Governor and ten members are appointed by the Alaska Visitors Association. The Director of the Division of Tourism serves as an ex-officio member of the Council.

The Council is responsible for the design and execution of the State's domestic marketing program--concentrating on travel to Alaska by U.S. residents. Section 44.33.705, Alaska Statutes, requires the council to prepare a tourism promotional plan, implement a tourism marketing program, and submit annual reports on all contractual money spent in the promotion of tourism. Each year the Alaska Visitors Association holds several fund raising events. Some of the proceeds go to assist the Alaska Tourism Marketing Council. The Alaska Visitors Association is a nonprofit trade organization consisting of more than six hundred member businesses representing the tourism industry statewide. The bulk of the Council's budget comes from the sale of advertising space in the State Vacation Planner -- a state publication about vacationing in Alaska.

## **Arizona**

Tourism promotion in Arizona is the responsibility of the Arizona Office of Tourism. Section 41-2302, Arizona Revised Statutes, places the director of the Office of Tourism in charge of promoting and developing a campaign of information, advertising, promotion, exhibition, and publicity relating to tourism. The law requires the Office to utilize any media of communication, publication, and exhibition in the dissemination of information, advertising and publicity for the promotion of Arizona as a tourist destination.

Section 41-2304 requires the Governor of Arizona to appoint an advisory council consisting of fifteen members from the private sector representing the recreational and tourist attractions, lodging, restaurant or food and transportation industries, other tourism businesses, and the general public. The law requires the advisory council to assist and advise the director in the preparation of the budget and in the establishment of policies and programs which promote and develop tourism in the State.

## **Arkansas**

Tourism promotion in Arkansas is the responsibility of the Division of Tourism and the State Parks, Recreation, and Travel Commission. The Commission is administered by the Arkansas Department of Parks and Tourism.

Section 15-11-202, Arkansas Code of 1997 Annotated, requires the Governor of the State of Arkansas to appoint twelve members from the private sector to the Commission. The Director of Parks and Tourism serves as the ex-officio non-voting secretary of the Commission. The Commission is administered by the Department of Parks and Tourism.

Section 5-11-202, requires the Governor of the State of Arkansas to appoint twelve members from the private sector to the Commission. The law requires the appointees to be engaged in occupations such as radio and television broadcasting, recreation, the restaurant and hotel industry, and the travel industry. Members of the Commission are not compensated, but are reimbursed for meeting expenses.

The duties of the Commission include aiding in the establishment of new industrial enterprises and the expansion of the tourist industry. The Commission is also responsible for furnishing favorable information about the State and its people.

## **California**

Tourism promotion in California is the responsibility of the Office of Tourism under an eleven-member commission known as the California Tourism Commission. The public members of the Commission include the Secretary of Trade and Commerce; the Director of the Office of Tourism;

one member of the Senate; and one member of the Assembly. The tourism industry representatives on the Commission include five members appointed by the Governor; one member appointed by the Senate Committee on Rules; and one member appointed by the Speaker of the Assembly.

Chapter 1.6, Annotated California Codes, articulates the goals and objectives of the State of California with respect to promoting travel to the State. Section 15364.5 establishes a state priority to:

- Provide the State with an effective means of promoting and marketing the State of California as a destination for tourists on a worldwide basis;
- Provide the private sector with a more effective means of promoting tourism efforts and a forum for removing obstacles to overall tourism growth in order for California to remain competitive in world and national tourism marketplaces.

Section 15364.52(d), requires the California Tourism Commission and the Office of Tourism to annually update a tourism marketing plan for the State of California that:

- Serves as a guide for implementing the California Tourism Policy Act;
- Includes an assessment of the activities and accomplishments of the Office of Tourism;
- Outlines the intended program of tourism promotion and visitor service activities for the on-coming year;
- Delineates the ways, means, and programs by which tourism can be promoted, including any cost-effective marketing methods and techniques to be employed;
- Identifies resources from public and private sources to accomplish these promotion and marketing activities;
- Identifies cooperative or shared cost programs, or opportunities with private entities; and
- Contains other information or recommendations that may be germane to the marketing of California.

To carry out the foregoing duties and functions, the law requires the Commission to work to the maximum extent practicable with governmental organizations and private for-profit and nonprofit associations, corporations, organizations, or other entities, or all of these, whose purpose includes the promotion, representation, or development, or all of these, of travel and tourism.

## **Colorado**

Tourism promotion in Colorado is the responsibility of the Colorado Travel and Tourism Authority. The Authority is a political subdivision of the State and is not subject to the administrative direction of any state department. The Authority is governed by a Board of Directors composed of twenty-one members. Section 29-24-105, Colorado Revised Statutes, requires the Governor to appoint fifteen members to represent the food/restaurant industry; the hotel/motel industry; the transportation industry; events/attractions industry; and the recreation industry of Colorado. Six at-large members are elected by tourism-related businesses contributing tourism promotion payments to the Authority in accordance with the law.

Section 29-24-109, Colorado Revised Statutes, requires the Board of Directors of the Authority to:

- Plan, promote, and develop Colorado's travel and tourism industry;
- Gather and disseminate information about travel and tourism;
- Cooperate with state, local, national, and private agencies in the development and promotion of travel and tourism;
- Receive and expend funds received through collection of contributions; and
- Exercise any other powers or perform any other duties which are consistent with the purposes of the Authority.

## **Connecticut**

Tourism promotion in Connecticut is carried out by the Connecticut Office of Tourism under the Department of Economic and Community Development. The Office is headed by a director appointed by the state Commissioner of Economic Development. Section 32-300, Connecticut General Statutes Annotated, requires the Office to provide marketing and other assistance to the tourism industry, and develop and annually update a strategic marketing plan for the national and international promotion of Connecticut as a tourism destination. The Office is also authorized to issue tourism grants to the various Connecticut municipalities.

The Office of Tourism administers a thirteen-member public/private council known as the Connecticut Tourism Council. The council consists of the Commissioner of Economic and Community Development; the Commissioner of Transportation; the Commissioner of Environmental Protection; and eleven members appointed by the Governor and the Legislature. Section 32-301, Connecticut General Statutes Annotated, requires the council to review and approve the tourism strategic marketing plan developed by the Office.

Section 32-303, Connecticut General Statutes Annotated, establishes a revolving fund known as the Tourism Account. The law requires the Office to expend moneys in the account to issue tourism grants, develop a tourism marketing plan, and promote tourism advertising.



## **Delaware**

Tourism promotion in Delaware is the responsibility of the Delaware Tourism Office and the Tourism Advisory Board under the Delaware Economic Development Office. Section 5008, Delaware Code Annotated, requires the Tourism Board to provide advisory assistance on all matters relating to the promotion of the State as a destination for tourists and other travelers. The law authorizes the Board to study, research, and plan programs deemed appropriate to carry out its mission.

The Tourism Advisory Board consists of seven members appointed by the Governor to serve for terms of three years. Members of the Board must be residents of the State engaged in visitor-related occupations that provide direct service to tourists and other travelers. At least two members of the Board must be appointed from each of the three counties of the State. The remaining members must be appointed to reflect a balance between the major political parties of the State.

## **Florida**

Tourism promotion in Florida is the responsibility of the Florida Office of Tourism, Trade, and Economic Development and the Florida Commission on Tourism. Section 14.2015, Florida Statutes Annotated, establishes the Office of Tourism and Trade under the Executive Office of the Governor. The tourism-related duties of the Office include:

- Contracting with the Florida Commission on Tourism to guide, stimulate, and promote travel and leisure development of the State;
- Serving as the contract administrator for the State with respect to contracts with the Commission on Tourism; and
- Preparing and submitting annual budgetary requests to the Legislature for tourism promotion.

Section 288.1223, Florida Statutes Annotated, establishes the Florida Commission on Tourism. The Commission consists of the Governor; one member of the Senate; one member of the House of Representatives; and twenty-seven members appointed by the Governor to represent various general tourism-related businesses and organizations; the statewide rental car system; the hotel industry; county marketing organizations; and the airline industry. The Governor serves as the ex-officio chairperson of the Commission. The members of the Commission are required to serve without compensation, but are reimbursed for meeting expenses. The law directs and authorizes the Commission to:

- Oversee the State's efforts to increase the positive impacts of tourism -- including increased employment;

- Continually upgrade the image of Florida as a quality destination;
- Promote tourism objectives with all geographic, socioeconomic, and community sectors considered equitably;
- Appoint advisory commissions representing the six regions of the State;
- Contract with a not-for-profit corporation to execute the tourism marketing and promotion services, functions, and programs for the State;
- Advising the Office of Tourism, Trade, and Economic Development on the domestic and international tourism promotion programs of the State; and
- Recommending the basic elements of the 4-year marketing plan to sustain tourism growth.

## **Georgia**

Tourism promotion in Georgia is the responsibility of the Division of Tourism under the Georgia Department of Industry, Trade, and Tourism. The Division operates under the guidance and supervision of the Board of Industry, Trade, and Tourism. Section 50-7-4, Official Code of Georgia Annotated, designates the Board as the policy-determining body of the Department and vests its members with the powers, duties, and jurisdiction authorized under the law.

Members of the Board of Industry, Trade, and Tourism are appointed by the Governor, subject to the approval of the Senate. Section 50-7-3, directs the Governor to appoint one member to represent each congressional district of the State and five members to represent the State at-large. The members of the Board receive no compensation but are reimbursed for meeting expenses.

Section 50-7-7, outlines the powers and duties of the Board. In addition to planning, developing, and implementing programs relating to trade and industrial promotion, the Board is required to:

- Conduct a program of information and publicity designed to attract tourists, visitors, and other interested persons from outside the State;
- Encourage and coordinate the efforts of other public and private organizations or groups of citizens to publicize the facilities and attractions of the State for the same purposes;
- Participate with public and private groups, organizations, and businesses in joint advertising and promotional projects that promote the economic and tourist development of the State of Georgia.

## **Idaho**

Tourism promotion in Idaho is the responsibility of the Idaho Travel and Convention Industry Council and the Idaho Department of Commerce. Section 67-4710, Idaho Code, establishes a state policy to promote the welfare of the citizens of the State by providing employment through the promotion of Idaho's travel and convention industry.

Section 67-4712 establishes the Idaho Travel and Convention Industry Council within the Idaho Department of Commerce. The law requires the council to advise the Department on matters related to the travel and convention industry. The law also directs the Governor to appoint seven members to the council -- one member to represent each of the seven planning regions of the State. Section 67-4713 requires the appointees to be individuals actively involved in the State's travel and convention industry, as a career or as an investment.

Section 67-4717 establishes the Idaho Regional and Statewide Grant Program for the funding of statewide and regional travel promotion programs. The grant program is funded through the assessment of a two percent tax on the rental of all hotel, motel, and campground facilities in the State. The law requires fifty percent of the proceeds in the fund to be returned to local nonprofit organizations having their primary purpose the promotion of travel and conventions within a planning region for the purpose of travel and convention promotion within their area. The remaining fifty percent of the fund proceeds must be utilized for the promotion and development of statewide travel and convention programs.

## **Illinois**

Tourism promotion in Illinois is the responsibility of the Illinois Bureau of Tourism under the Illinois Department of Commerce and Community Affairs. Section 605/46.6, Illinois Compiled Statutes, directs the Department to encourage and promote tourism within the State.

The Bureau oversees a multi-million dollar advertising and promotion effort designed to attract visitors to Illinois. Through a toll-free number, callers are connected to travel counselors who can answer their questions, direct them to Illinois activities that fulfill their travel needs, and provide them with the information they need to plan both business and leisure travel. The duties of the Bureau include:

- Providing dollar-for-dollar matching grants to certified local tourism and convention bureaus to enable them to conduct promotional activities designed to increase the number of business and pleasure travelers visiting their areas;
- Providing financial assistance to counties, municipalities, and local not-for-profit organizations to promote tourist attractions and events in their areas, thus increasing hotel/motel occupancy and travel into and throughout the State.

- Providing matching funds on a dollar-for-dollar basis to assist private-sector efforts to attract and host major national or international events in Illinois, such as trade shows, conventions, major sports events, or other major activities that increase hotel/motel stays and provide economic impact for the State.
- Providing grants to counties, municipalities, and not-for-profit organizations and loans to for-profit organizations to assist in the development and improvement of tourist attractions in Illinois, thus increasing hotel/motel stays and providing economic benefits for the State.

Section 605/46.59, Illinois Compiled Statutes, establishes the Illinois Tourism Fund Advisory Committee within the Department of Commerce and Community Affairs. The Committee is composed of eleven members, including: two members of the Senate; two members of the House of Representatives; and seven members appointed by the Governor with experience in the hotel, restaurant, travel agency, bus, rail transport, communications, or petroleum industries.

## **Indiana**

Tourism promotion in Indiana is the responsibility of the Indiana Department of Commerce and the Tourist Information and Grant Fund Review Committee.

Section 4-4-3.5-3, ISA, establishes the Tourist Information and Grant Fund Review Committee within the Indiana Department of Commerce. The Committee consists of fifteen members. The Lieutenant Governor serves as an ex-officio member of the Committee -- the remaining members are appointed by the Director of Commerce, including: six members from the Indiana General Assembly; seven members representing the tourism industry; and one employee of the Department of Commerce.

Funding for the issuance of grants by the Department of Commerce is provided by the Tourist Information and Promotion Fund. Section 4-4-3.5-3, Indiana Statutes Annotated, authorizes the Department of Commerce to issue grants from the fund to tourism groups for the promotion of tourist resources and facilities in the State. The law stipulates, however, that each grant must be matched on a dollar-for-dollar basis with moneys pledged by the applicant.

## **Iowa**

Tourism promotion in Iowa is the responsibility of the Division of Tourism and Visitors under the Iowa Department of Economic Development. The Department is headed by an eleven-member board known as the Iowa Economic Development Board consisting of eleven voting members appointed by the Governor and seven ex officio nonvoting members.

In addition to promoting economic development throughout the State, the Department of Economic Development is required to promote Iowa's public and private recreation and tourism

opportunities to Iowans and out-of-state visitors and aid promotional and development efforts by local governments and the private sector. Section 15.108, Iowa Code Annotated, requires the Department to:

- Build support for Iowa's public and private recreation, tourism, and leisure opportunities and needs;
- Recommend high quality site management and maintenance standards for all public and private recreation and tourism opportunities;
- Develop with other state agencies, public interpretation and education programs which encourage Iowans and visitors to participate in recreation and leisure opportunities available in Iowa;
- Formulate and direct marketing and promotion programs to out-of-state markets exhibiting the highest potential for consuming Iowa's public and private tourism products;
- Provide long-range planning for improvements in Iowa's public and private tourism opportunities; and
- Monitor tourism visitation by Iowans and out-of-state visitors to Iowa attractions, public and private employment levels, and other economic indicators of the recreation and tourism industry.

The law also authorizes the Department to establish a revolving fund to receive contributions and funds for cooperative advertising efforts and the start-up of tourism special events, fairs, and festivals. Fees and royalties obtained from licensing the use of logos and other creative materials by private vendors on selected products are also deposited in the fund.

## **Kansas**

Tourism promotion in Kansas is the responsibility of the Division of Travel and Tourism and Film Services under the Kansas Department of Commerce and Housing. The Division is assisted by the Kansas Tourist Attraction Evaluation Committee and the Commission on Tourism and Travel.

Section 74-5089, Kansas Statutes Annotated, establishes the Kansas Tourist Attraction Evaluation Committee. The law directs the Secretary of Commerce and Housing to appoint three members with experience in travel and tourism to serve on the Committee. The Director of the Division of Travel and Tourism serves as the nonvoting chairperson of the Committee. The primary function of the Kansas Tourist Attraction Committee is to oversee the issuance of matching grants for the development of tourist attractions and the promotion of tourism throughout the State. Section 74-5089, Kansas Statutes Annotated, establishes a matching grant program under the Department of Commerce and Housing. Grants awarded by the Committee may be issued to nonprofit

organizations provided that the amount of any single grant is limited to forty per cent of the cost of the proposed project. All grants issued by the Committee are paid out of the proceeds of the Kansas Tourist Attraction Matching Grant Development Fund.

Section 74-9002, Kansas Statutes Annotated, establishes the Commission on Travel and Tourism. The Commission is composed of fifteen members, including: two members from the Senate; two members from the House of Representatives; and eleven members from the travel industry appointed by the Governor. The purpose of the Commission is to:

- Advise the Department of Commerce and Housing on the development and implementation of the State tourism marketing and business development program;
- Identify and review tourism-related issues and state policies that affect travel and tourism;
- Report annually to the Department of Commerce and Housing on recommendations to promote travel and tourism in Kansas.

## **Kentucky**

Tourism promotion in Kentucky is the responsibility of the Tourism Development Cabinet, the Division of Tourism Services, and the Division of Marketing and Advertising.

The Division of Tourism Services and the Division of Marketing and Advertising are subdivisions of the Kentucky Department of Travel Development. The Division of Tourism Services is responsible for maintaining Kentucky's highway welcome centers; conducting hospitality education programs; and coordinating marketing and trade shows. The Division of Marketing and Advertising is responsible for conducting state tourism advertising; administering the matching fund advertising program; developing a market research data base; conducting marketing surveys; and conducting special studies related to tourism.

The Tourism Development Cabinet is composed of five agencies: the Department of Travel; the Department of Parks; the Department of Fish and Wildlife Resources; the Kentucky Horse Park; and the Kentucky Fair Board. The Cabinet is headed by the Secretary of Tourism Development. The Cabinet oversees the implementation of the Kentucky Tourism Development Act. The program is designed to spur the development of major tourism attractions by providing financial incentives to qualified tourism projects. To qualify for assistance, a project must: cost a minimum of \$1 million; draw twenty-five per cent of its visitors from out-of-state within four years; operate at least one hundred days a year; and be a destination attraction.

## **Louisiana**

Tourism promotion in the State of Louisiana is the responsibility of the Louisiana Office of

Tourism and the Louisiana Tourism Development Commission. The Office of Tourism is a subdivision of the Department of Culture Recreation and Tourism and is headed by the Assistant Secretary of Tourism.

Section RS 51:1254, Louisiana Revised Statutes, articulates the general mission of the Office and places it in charge of the design, planning, development, and implementation of the effective and accurate promotion of Louisiana's history, culture, art, folklife, recreational and leisure opportunities, natural scenic resources, transportation, cuisine, site, attractions, accommodations, and events. The functions of the Office, include but are not limited to:

- Promoting the expansion of tourism in Louisiana;
- Selecting and using an appropriate theme about Louisiana for a unified and comprehensive promotions program and preparing media/literature campaigns promoting an image of Louisiana that is responsible and accurate;
- Encouraging the generation of employment opportunities in the State through the orderly but accelerated development of facilities for tourism, travel, and hospitality;
- Making and entering into contracts to provide the stipulated services for promotions, advertising, and publicity;
- Providing basic support and discretionary grants to local tourist promotion agencies; and
- Formulating a three-year statewide master plan for tourism marketing in Louisiana and submitting an annual report to the Legislature and the Governor.

The Louisiana Tourism Development Commission is a body politic and corporate entity of the State of Louisiana composed of eighteen members. Section RS 51:1256, Louisiana Revised Statutes, requires the Governor to appoint five at-large members and eleven members from various tourism-related organizations in Louisiana. The Lieutenant Governor and the Secretary of State serve as ex-officio members of the Commission. The Commission serves in an advisory capacity to the Assistant Secretary of Tourism on matters related to the development and implementation of programs to promote tourism.

## **Maine**

Tourism promotion in Maine is the responsibility of the Office of Tourism under the Maine Department of Economic and Community Development. The Office of Tourism administers the Maine Tourism Promotion Commission and the Maine State Film Commission. Section 13092, Maine Statutes Annotated, articulates the powers and duties of the Office. In addition to its duties to promote the film industry in the State of Maine, the Office is required to:

- Implement advertising and promotion programs to market the State's travel industry;

- Print in cooperation with other travel promotion agencies, booklets, brochures, and other materials;
- Encourage the development of travel product facilities;
- Provide support and grants to nonprofit travel promotion agencies; and
- Administer an information center.

The Maine Tourism Promotion Commission provides advisory assistance to the Office of Tourism. Section 13093, Maine Statutes Annotated, directs the Governor to appoint seventeen members to the Commission, including nine members representing various tourism-related businesses and eight members representing various regional areas of the State. The directors/commissioners of Economic and Community Development; State Planning; Conservation; Transportation; Fisheries and Wildlife; Agriculture; Education and Cultural Services; Public Improvement; and Canadian Affairs serve as ex-officio nonvoting members of the Commission. The law directs the Commission to assist the Office of Tourism by recommending rules for the implementation of the State's tourism program and recommending policy guidelines for the marketing and promotion of tourism. The Commission is also required to conduct public hearings on a regular basis to obtain public input concerning tourism policy development.

Grant awards, matching funds, and other types of assistance from the Office of Tourism are funded by the Travel Promotion Matching Fund. The grants are to be used to strengthen the State's image by coordinating the promotional efforts of the private sector. Section 13904, Maine Statutes Annotated, requires the moneys in the fund to be allocated to public and private nonprofit organizations promoting tourism travel to the State of Maine.

## **Maryland**

Tourism promotion in Maryland is the responsibility of the Office of Tourism Development and Promotion within the Maryland Department of Business and Economic Development. The Office of Tourism Development and Promotion administers and provides staff for the Maryland Tourism Development Board and the Advisory Committee on Tourism.

Section 4-203, Annotated Code of Maryland, establishes the Maryland Tourism Development Board. The Board consists of fifteen members including: two members from the Senate; two members from the House of Delegates; and eleven members involved in the lodging, food service, transportation, and tourism trades appointed by the Governor. The Director of the Office of Tourism Development serves as the Executive Director of the Board.

The Maryland Tourism Development Board administers the Maryland Tourism Development Board Fund. Moneys in the fund are expended for the planning, advertising, promotion, assistance, and development of tourism and travel industries in the State. The fund consists of moneys appropriated by the Legislature and other moneys accepted by the Board. Other duties and



responsibilities of the Board include:

- Drafting and implementing a five-year strategic annual marketing plan, and an annual operating budget for the promotion and development of tourism;
- Encouraging the development of new tourism resources and attractions in the State and producing a climate conducive to small tourism business growth and viability;
- Reviewing taxes, fees, licenses, regulations, and regulatory procedures affecting tourism in the State; and evaluate their impact on the ability of the tourism industry to create employment and generate income;
- Supporting research necessary to evaluate, plan, and execute effective tourism programs;
- Coordinating the tourism activities of local and regional promotional organizations; and
- Setting policies regarding the expenditures of appropriated and other funds for tourism advertising, cooperative and matching promotional programs, and other tourism and travel developmental and promotional activities for the State.

The Advisory Committee on Tourism consists of forty-members appointed by the Governor representing various tourism-related trade associations based in Maryland, including but not limited to the Maryland Hotel Association, the Restaurant Association of Maryland, and the Maryland Bed and Breakfast Association. The duties of the Committee include:

- Collecting and preparing information that relates to the economic, fiscal, and social effects of tourism; and
- Advising the Maryland Tourism Development Board on actions and incentives that will assist the Board in carrying out its duties.

## **Massachusetts**

Tourism promotion in the State of Massachusetts is the function of the Office of Travel and Tourism under the Massachusetts Department of Economic Development. The Office is administered by the Executive Office of Economic Affairs and is headed by an Executive Director appointed by the Secretary of Economic Affairs. Section 13B, Annotated Laws of Massachusetts, requires the Office of Travel and Tourism to:

- Serve as the principal agency for promoting the recreational, cultural, historic, and scenic resources of the Commonwealth; and
- Increase the Commonwealth's desirability as a location for tourism, convention, travel and recreation-related activities by providing informational, marketing, and technical assistance to public and private nonprofit entities organized for similar purposes.

The Office of Travel and Tourism promotes Massachusetts as a location for tourism, convention, travel, and recreation-related activities. It works cooperatively with a private sector advertising firm to market Massachusetts as a travel destination. The Office distributes publications describing cultural, historical, and recreational places and events. It provides informational, marketing, and technical assistance to public and private nonprofit entities organized for similar purposes. The State's thirteen regional tourist councils are membership-based nonprofit organizations that are supported, in part, by a matching grant program administered by the Office. Each council is responsible for developing programs to market its specific region of the State as a travel destination.

Section 13C, Annotated Laws of Massachusetts, requires the Executive Director to appoint a seventeen-member Advisory Committee on Vacation Travel to assist the Office of Travel and Tourism in the discharge of its duties; provided that fourteen of the Committee's positions must be filled by the chief executive officers of various regional business associations identified in the law. The members of the advisory committee receive no compensation, but are reimbursed for meeting expenses.

## **Michigan**

Tourism promotion in Michigan is the responsibility of the Michigan Travel Commission. The Commission serves in an advisory capacity to the Travel Bureau under the Michigan Department of Commerce. The thirteen-member Commission is administered by the Department of Commerce and is made up of the "secretary-managers" of various regional tourist/recreation/travel industry associations specifically identified under the law. The members of the Commission serve without compensation, but are reimbursed for meeting expenses.

Section 3.448(1), Michigan Statutes Annotated, requires the Commission to:

- Facilitate the orderly growth and development of the travel, tourism, and convention industry of the State;
- Establish policies encouraging vacation, recreation, and convention travel by residents and nonresidents; and
- Advertise, market, and publicize the travel vacation product of the State to residents and nonresidents, in newspapers, broadcast media, magazines, booklets, leaflets, movies, and periodicals, and in such other manner, including media and trade receptions, as shall be deemed advantageous.

Section 3.448(3) requires the Commission to develop policy guidelines on marketing, promotion, and advertising strategies, and travel promotion development priorities for implementation by the Travel Bureau. The law also requires the Commission to submit detailed annual reports to the Director of Commerce concerning the programs, policies, and accomplishments of the Travel Bureau.

Section 3.448(3a) requires the Legislature to make annual appropriations to carry out the purposes of the Travel Bureau. The law requires the Travel Bureau to disburse all moneys for basic support grants to eligible agencies and authorities to provide continuing support of advertising and promotional efforts designed to encourage travel for purposes of resort and recreational tourism, business and conventions, and sightseeing and entertainment.

## **Minnesota**

Tourism promotion in Minnesota is the responsibility of the Office of Tourism under the Minnesota Department of Trade and Economic Development. Among various other administrative duties, section 116J.615, Minnesota Statutes, requires the Director of Tourism to plan and conduct information and publicity programs to attract tourists, visitors, and other interested persons from outside the State; encourage and coordinate efforts of other public and private organizations or groups of citizens to publicize facilities and attractions in the State; and work with representatives of the hospitality and tourism industry to carry out its programs.

Section 116J.617 establishes a Tourism Loan Program along with a special revenue fund to provide loans to resorts, campgrounds, lodging facilities, and other tourism-related businesses. The fund consists of gifts, donations, and moneys appropriated by the Legislature. To qualify for a loan, the borrower must be a sole proprietorship, partnership, or corporation engaged in a tourism-related business. The loans may be used for land acquisition, building acquisition, construction costs, and other project-related expenses. Loans from the program may not exceed fifty per cent of the total cost of the project.

## **Mississippi**

Tourism promotion in Mississippi is the responsibility of the Division of Tourism Development under the Mississippi Department of Economic and Community Development. Section 57-1-59, Mississippi Code Annotated, authorizes the Department to:

- Promote and advertise the image of Mississippi;
- Promote fairs and similar activities to the traveling public;
- Promote wildlife areas, recreational facilities, and other resources of the State;
- Develop for all state agencies promotional and advertising materials;
- Maintain an educational awareness program and develop an information services system for the traveling public;
- Develop an extensive media program to inform national and international markets about Mississippi; and

- Develop and administer a matching grants program to promote local tourist attractions.

Section 57-27-3, Mississippi Code Annotated, authorizes the establishment of nonprofit regional tourist promotion councils for the promotion of tourism within their respective jurisdictions. The law authorizes the issuance of grants to the various regional councils to assist in the funding of campaigns aimed at stimulating tourist travel to the various regions of the State.

## **Missouri**

Tourism promotion in Missouri is the responsibility of the Division of Tourism and the Missouri Tourism Commission under the Missouri Department of Economic Development. Section 620.465, Annotated Missouri Statutes, requires the Division of Tourism to:

- Formulate a program to promote tourism, state parks, fishing and hunting areas, historical shrines, vacation regions, and areas of scenic interest in the State;
- Cooperate with civic and governmental groups in developing tourism promotional programs;
- Publish promotional materials, brochures, and booklets;
- Publish promotional advertisements about Missouri in newspaper, radio, television, publications, and exhibitions;
- Establish travel offices at major points of entry to the State; and
- Accept grants and other funds to promote tourism.

The Division of Tourism also administers the Tourism Marketing Fund established under section 620.466, Annotated Missouri Statutes. The purpose of the fund is to provide funds to market tourism in a manner consistent with the State's goal to increase tourism.

Section 620.455, Annotated Missouri Statutes, establishes the Missouri Tourism Commission. The Commission consists of ten members, including: two members from the Senate; two members from the House of Representatives; the Lieutenant Governor; and five members appointed by the Governor. The law requires the Committee to:

- Determine all matters relating to tourism policy and promotion; and
- Make recommendations for tourism promotion legislation to the Legislature during each regular session.

## **Montana**

Tourism promotion in Montana is the responsibility of the Montana Department of Commerce and the Tourism Advisory Council. The Council is composed of twelve members appointed by the Governor from the travel industry to represent each tourism region established by the Governor. The law also stipulates that at least one member be from an Indian Tribal Government.

Section 2-15-1816, Montana, directs the council to carry out programs, including but not limited to:

- Advise the Department of Commerce on matters relating to tourism promotion;
- Oversee the distribution of funds to regional nonprofit corporations, convention, and visitors bureaus;
- Advise the Governor on significant matters relating to Montana's travel industry;
- Direct the university system regarding Montana travel research; and
- Encourage regional nonprofit corporations to promote tourist activities on Indian reservations in their regions.

## **Nevada**

Tourism promotion in Nevada is carried out by a seven-member public/private commission known as the Nevada Commission on Tourism. The members of the Commission include the Nevada Lieutenant Governor and six members representing the private sector. Section 231.170, Nevada Revised Statutes, requires the Governor to appoint an executive director and six members experienced in travel and tourism, including the business of gaming. The law requires the Commission to administer a Division of Tourism and a Division of Publications.

Under the guidance of the Commission, the Division of Tourism is required to develop a state plan to develop a comprehensive marketing, advertising program to publicize and promote travel to Nevada. The Division is also authorized to coordinate programs of travel and tourism among the cities and counties of Nevada by creating statewide or regional councils comprised of representatives from businesses, trade associations, and governmental agencies.

Under the guidance of the Commission, the Division on Publications is required to publish the Nevada Magazine. The law requires the magazine to include materials which educate the general public about Nevada.

## **New Hampshire**

Tourism promotion in New Hampshire is the responsibility of the Office of Travel and

Tourism Development within the New Hampshire Department of Resources and Economic Development. The Department also administers the Division of Parks and Recreation and the Division of Economic Development. The Department is required to plan and conduct a program of information and publicity to attract tourists, visitors, industrial concerns, and other interests from outside the State to New Hampshire.

Section 12-A:1-e, New Hampshire Revised Statutes Annotated, requires the Department to administer a Joint Promotional Advertising Program to promote tourism in New Hampshire. The Department is assisted by the Joint Promotional Program Screening Committee. The Joint Promotional Program Screening Committee consists of nine members, including: the Director of the Office of Travel and Tourism and eight members nominated by the New Hampshire Travel Council and confirmed by the Governor. Funds and matching grants allocated by the Screening Committee can only be allocated to regional associations, statewide tourist groups, chambers of commerce, and other tourism promotional organizations within New Hampshire.

## **New Jersey**

Tourism promotion in New Jersey is the responsibility of the Division of Travel and Tourism under the New Jersey Department of Labor and Industry. The Division is headed by a director appointed by the Governor with the advice and consent of the Senate. The Division of Travel and Tourism is assisted by the New Jersey Tourism Advisory Council composed of eighteen members, including: two members of the Senate appointed by the President of the Senate; two members of the General Assembly appointed by the Speaker of the Assembly; and thirteen members representing various visitor industry organizations in the State.

Section 34:1A-46, New Jersey Permanent Statutes, requires the Division of Travel and Tourism to:

- Provide an optimum of satisfaction and high-quality service to visitors;
- Protect the natural beauty of New Jersey; and
- Sustain the economic health of the tourist industry in a manner and to the extent compatible with such goals.

## **New Mexico**

Tourism promotion in New Mexico is the responsibility of the New Mexico Tourism Department. The Department administers the Travel and Marketing Division; the New Mexico Magazine Division; and the New Mexico Tourism Commission. The Department is headed by the Secretary of Tourism appointed by the Governor.

Sections 9-15A-4 and 9-15A-6, New Mexico Statutes Annotated, require the New Mexico Tourism Department and the Secretary to:

- Provide a coordinated statewide perspective with regard to tourism activities;
- Provide a database for local and regional tourism groups and serve as a comprehensive source of information and assistance to tourism-related businesses wishing to locate, expand or do business in New Mexico;
- Monitor the progress of state-supported tourism activities and prepare annual reports of such activities, their status and their impact; and
- Prepare an annual budget based on the five-year tourism plan approved by the Tourism Commission.

The New Mexico Tourism Commission provides advisory assistance to the Tourism Department. The Commission consists of seven members appointed by the Governor, including: one member appointed at-large and two members from each of the three congressional districts. Section 9-15A-9, New Mexico Statutes Annotated, requires the Commission to:

- Develop and recommend policies and provide policy and program guidance for the Department;
- Review, modify, and approve annual updates to the State's five-year tourism plan generated by the Tourism Department; and
- Establish such rules and regulations for its own operations as are necessary to achieve the purposes of the Tourism Department Act.

## **New York**

Tourism promotion in New York is the responsibility of the New York Department of Economic Development. Article 5-A, New York Statutes, establishes the New York State Promotion Act. Section 161 requires the Department to:

- Encourage and coordinate the planning and implementation of programs to advertise, stimulate, promote, and increase tourist travel within the State;
- Establish and publish on an annual basis, guidelines for the disposition of tourism promotion funds;
- Process all applications for matching funds submitted by not-for-profit tourism promotion agencies;
- Authorize the payment of funds for tourism promotion; and

- Formulate and annually update a master plan for the development of tourism promotion facilities, activities, and campaigns.

Article 5-B, section 170, New York Statutes, establishes the New York State Tourism Advisory Council. The Council is composed of eighteen members appointed by the Governor representing various New York convention bureaus, restaurants, cultural institutions, theme parks, hotels/motels, and other travel-related businesses. The Council is required to assist and advise the Department in the:

- Identification of tourism-related issues, policies, and programs which affect tourism and recommend the adoption of new policies;
- Development and promotion of tourism and travel facilities in the State;
- Development and implementation of the State's marketing and business development program;
- Development of legislation necessary to foster and promote tourism;
- Identification of existing laws, rules, regulations, and practices of state agencies which are counterproductive to the expansion of tourism;
- Development of intergovernmental cooperation among agencies at all levels of government; and
- Development of programs to ensure consumer protection for visitors.

## **North Carolina**

Tourism promotion in North Carolina is the responsibility of the Division of Travel and Tourism under the North Carolina Department of Commerce and the North Carolina Travel and Tourism Board.

Section 143B-434-2, General Statutes of North Carolina, articulates the duties and responsibilities of the Division of Travel and Tourism. The duties of the Division include, but are not limited to:

- Developing a comprehensive plan for tourism and organizing programs designed to promote tourism;
- Measuring and forecasting tourist volume, receipts, and impact, both social and economic;
- Encouraging the development of tourism infrastructure, facilities, services and attractions;



- Developing opportunities for professional training and education in tourism;
- Developing informational materials for visitors which describe the State's tourist resources, history, culture, and economy; and
- Providing assistance to local public and private tourism organizations.

The Travel and Tourism Board consists of twenty-five members, including the Secretary of Commerce; the Director of the Division of Travel and Tourism; the Chairperson of the Travel and Tourism Coalition; the President of the Travel Council; the President of the Citizens for Business and Industry; and twenty members affiliated with various hotel, travel, and tourist associations. Section 143B-434.1, General Statutes of North Carolina, outlines the duties of the Division and the Travel and Tourism Board. The duties of the Board include, but are not limited to:

- Assisting the Secretary of Commerce in the formulation of policies and a budget for the promotion of tourism in the State;
- Recommending programs that promote the State as a tourism destination and develop tourism opportunities;
- Reporting to the Secretary of Commerce every three months as to the effectiveness of advertising agencies contracted by the Department to promote tourism; and
- Exchanging ideas on tourism with local governments, private agencies, and individuals.

## **North Dakota**

Tourism promotion in North Dakota is the responsibility of the North Dakota Tourism Department. The Department is headed by a director of tourism appointed by the Governor. Sections 54-34.4-01 and 54-34.4-02, North Dakota Century Code, requires the Department to:

- Foster and promote tourism to, and within, the State;
- Promote the State and foster the full development of the State's tourism resources; and
- Serve as the planning and coordinating agency for tourism-related programs of the State and the State's political subdivisions.

## **Ohio**

Tourism promotion in Ohio is the responsibility of the Division of Travel and Tourism within the Ohio Department of Development. Section 122.07, Ohio Revised Code, requires the Division to:

- Disseminate information concerning the industrial, commercial, governmental, educational, recreational, agricultural advantages and attractions of the State; and
- Provide technical assistance to public and private agencies in the preparation of promotional programs designed to attract business, industry, and tourists to the State.

The law also authorizes the Division of Travel and Tourism to gather and disseminate market research data on tourism to market and promote the State's travel industry.

## **Oklahoma**

Tourism promotion in Oklahoma is the responsibility of the Division of Travel and Tourism of the Oklahoma Tourism and Recreation Department. The Department administers the Oklahoma Tourism and Recreation Commission and the Oklahoma Tourism and Recreation Department Revolving Fund.

Section 74-1813, Oklahoma Statutes Annotated, articulates the powers and duties of the Division of Travel and Tourism. The duties of the Division include, but are not limited to:

- Encouraging tourism growth by preparing a five-year travel development master plan and marketing plan jointly with the private sector;
- Conducting state, regional, national, and international marketing programs to create and perpetuate a responsible and accurate image of the State;
- Assisting the promotional programs of city and regional tourism organizations;
- Developing public information programs for the promotion of tourism to the public and media;
- Conducting statewide conferences to educate the State's public and private sector regarding travel trends which affect the tourism industry;
- Operating state-of-the-art welcome centers and a central fulfillment warehouse for the distribution of information on the State's tourism facilities;
- Providing matching grants to regional organizations that promote tourism to their area of the State; and
- Publish the "Oklahoma Today" magazine to promote the State's image.

The Oklahoma Tourism and Recreation Commission consists of seven members. Section 74-1804, Oklahoma Statutes Annotated, requires the Governor to appoint one member from each of the six congressional districts of the State. The Lieutenant Governor serves as an ex officio voting member of the Commission.

Section 74-1811.1, Oklahoma Statutes Annotated, establishes the Oklahoma Tourism and Recreation Department Revolving Fund. The revolving fund consists of moneys and fees received by the Department under various programs -- but not appropriated funds. Moneys in the fund are expended for the operations of the Division of Travel and Tourism and the publication of the "Oklahoma Today" magazine.

## Oregon

Tourism promotion in Oregon is the responsibility of the Tourism Program within the Oregon Economic Development Department. The Tourism Program is assisted by a nine-member commission known as the Oregon Tourism Commission. Section 285.145, Oregon Revised Statutes, requires the Tourism Program to:

- Collect, analyze, and disseminate data on the economic and social impacts of tourism;
- Carry out media advertising and promotion of Oregon as a visitor destination;
  
- Answer requests for information about Oregon and provide information to travel writers, agents, and tour operators;
  
- Print, publish, and distribute information about tourism in Oregon;
  
- Enter into cooperative agreements with other governmental agencies and the private sector to promote Oregon;
  
- Administer the Public-Private Partnership Program and the Matching Grant Program.

Section 285.135, Oregon Revised Statutes, establishes the Oregon Tourism Commission. The law requires the Governor to appoint seven members engaged in various tourism-related occupations to represent various regional areas of the State. One member is appointed by the Senate President and one member is appointed by the Speaker of the House of Representatives. The major duties of the Tourism Commission include:

- Advising the Governor, the Administrator of the Tourism Program, governmental bodies, and the private sector on all matters relating to tourism; and
  
- Preparing and revising a comprehensive marketing plan to maximize public and private investment in tourism, encourage longer vacations, reduce seasonal fluctuations, and generally promote tourism in the State of Oregon.

## **Pennsylvania**

Tourism promotion in Pennsylvania is carried out by the Pennsylvania Department of Commerce. Section 73-402, Pennsylvania Statutes Annotated, establishes a policy to promote the public welfare by means of issuing grants to tourist promotion agencies engaged in planning and promoting programs designed to stimulate and increase the volume of tourists and vacation businesses within the counties or regions served by the agencies. Section 73-405, Pennsylvania Statutes Annotated, authorizes the Department to issue grants to recognized tourist promotion agencies to finance the costs of studies, surveys, investigations, and promotional programs.

## **Rhode Island**

Tourism promotion in Rhode Island is the responsibility of the Rhode Island Department of Economic Development. Section 42-63-2, General Laws of Rhode Island, requires the Department to:

- Study, investigate, promote, and encourage the preservation, expansion, and sound development of state industry, business, commerce, and tourism;
- Disseminate information relative to the natural resources of the State, including industry, business, commerce, agriculture, fisheries, and recreational facilities; and
- Encourage the development of new industries in the State.

Section 42-63-10, General Laws of Rhode Island, authorizes the Department to provide assistance grants to nonprofit tourist promotion agencies engaged in stimulating or increasing the influx of visitors and travel businesses to the cities and towns of the State. Grants may be used to assist recognized tourist promotion agencies in conducting studies, surveys, and investigations relating to tourism.

## **South Carolina**

Tourism promotion in South Carolina is the responsibility of the Division of Tourism under the South Carolina Department of Parks, Recreation and Tourism.

The Department is assisted by the South Carolina Committee on Tourism. The Committee is composed of nine members, including: three members from the State Senate; three members from the State House of Representatives; and three members appointed by the Governor from the private sector. Section 51-21-10, Code of Laws of South Carolina, requires the committee to study programs and problems relating to tourism in the State and submit reports and recommendations to

the Legislature as the committee sees fit.

## **South Dakota**

Tourism promotion in South Dakota is the responsibility of the South Dakota Department of Tourism. Section 1-42-17.2, South Dakota Codified Laws, establishes the Department and requires the Department to assume all the duties and responsibilities formerly administered by the Division of Tourism. The Department is headed by the South Dakota Secretary of Tourism.

The Department of Tourism is assisted and advised by the Board of Tourism. The Board consists of eleven members appointed by the Governor from the private sector. Section 1-42-22, South Dakota Codified Laws, requires the Governor to appoint the members to ensure representation of each geographic region of the State.

## **Tennessee**

Tourism promotion in Tennessee is the responsibility of the Tennessee Department of Tourist Development. The Department, which is headed by the Tennessee Commissioner of Tourist Development, consists of two divisions: the Hotel and Restaurant Division and the Tourism Division.

Section 4-3-2204(b), Tennessee Code Annotated, requires the Tourism Division to:

- Promote new investment in the tourist industry;
- Provide comprehensive services to existing tourist enterprises;
- Promote in other states the attractions of Tennessee; and
- Distribute Tennessee information publications and supervise the system of welcome centers in the State.

## **Texas**

Tourism promotion in the State of Texas is the responsibility of the Texas Department of Commerce. Section 481.172, requires the Department of Commerce to:

- Promote and advertise the State of Texas within the United States and in foreign countries through television, newspaper, and other means considered appropriate;
- Encourage travel by Texans to the State's scenic, historical, natural, agricultural, educational, recreational, and other attractions;

- Coordinate and stimulate the orderly and accelerated development of tourist attractions in the State;
- Conduct a public relations campaign to create a responsible and accurate national and international image of the State;
- Cooperate with the Parks and Wildlife Department and the Texas Transportation Commission in all matters relating to promotion of tourism; and
- Encourage the participation of communities, organizations, and individuals in the promotion of Texas as a visitor destination.

## **Utah**

Tourism promotion in Utah is the responsibility of the Division of Travel Development under the Utah Department of Community and Economic Development. The program is administered by a five-member board known as the Utah Board of Travel Development. The members of the Board are appointed by the Governor for terms of four years. The law requires board members to represent a diverse mix of experience in travel and tourism-related industries.

Section 9-3-203, Utah Code Annotated, directs the Board to:

- Review a program of information advertising, and publicity relating to the recreational, scenic, historic, and tourist attractions of the State at large;
- Encourage and assist in the coordination of the activities of persons, firms, associations, civic groups, and governmental agencies engaged in publicizing, developing, and promoting the scenic attractions and tourist advantages of the State;
- Position Utah's tourism products and travel opportunities in the best possible light;
- Depict interesting activities in which potential visitors can imagine themselves engaged and fulfilled; and
- Target those visitors who are most apt to plan extended stays, spend more during their vacations, and visit repeatedly.

## **Vermont**

Tourism promotion in Vermont is the responsibility of the Department of Tourism and Marketing under the Vermont Department of Development. The Department is assisted by the Vermont Travel and Recreation Council. Section 27-651 establishes a public policy to support and encourage reasonable growth in the number of travelers to the State and enhance the competitive position of travel-related businesses in the State.

Section 27-652 establishes the Vermont Travel and Recreation Council. The Council consists of: the Secretary of Commerce and Community Development; the Secretary of Natural Resources; the Secretary of Transportation; the Commissioner of Agriculture; the Director of Tourism and Marketing, and ten members appointed by the Governor from the private sector.

The Council is required to provide assistance on all matters relating to state travel and recreation policy, state travel and recreation promotion programs, and other programs of the Travel Division, including:

- Developing an annual marketing plan for travel and recreation;
- Assisting in the preparation of a long-term comprehensive state travel and recreation plan; and
- Assisting in selecting proposals for awarding funds under the matching grants promotional programs.

Section 27-661 establishes the Vermont Travel Promotion Matching Fund Program to provide partial funding for promotional programs on a statewide or regional basis and strengthen the States's image by coordinating the promotional efforts of the private sector and the Department of Tourism and Marketing. The Department of Tourism and Marketing is required to administer the program so as to bring about the most effective and economical travel promotion program possible. The duties of the Department include:

- Awarding grants to approved travel promotion chambers and associations, programs; and
- Funding the Department of Tourism and Marketing's promotion budget specifically for the purpose of executing a private sector advertising campaign.

## **Virginia**

Tourism promotion in Virginia is the responsibility of the Virginia Economic Development Partnership Authority. The Authority is a political subdivision of the State of Virginia and is headed by a board consisting of the Secretary of Commerce and Trade; the Secretary of Finance; and thirteen members appointed by the Governor to represent various regions of the State. The Authority is administered by an executive director who is not a member of the Board.

Section 2.1-548.29:01, Code of Virginia, requires the Authority to:

- Prepare and carry out an effective tourism promotional program;
- Disseminate information of interest to tourists and the tourism industry;
- Operate welcome centers to inform the public of places of interest within Virginia;

and

- Assist organizations involved in television broadcasts to utilize the attractions and features of Virginia.

Funding for the promotion of tourism in Virginia is provided by the Cooperative Tourism Advertising Fund. Section 2.1-548.29:03, Code of Virginia, requires the Authority to allocate funds to encourage, stimulate, and support the tourism segment of the economy and the direct and indirect benefits that flow from the success of such industry. Moneys in the fund are used to match private funds used for the promotion, marketing, and advertising of the Commonwealth's tourist attractions. Funding for the Cooperative Tourism Advertising Fund is provided by sums appropriated from time to time by the General Assembly.

## **Washington**

Tourism promotion in the State of Washington is the responsibility of the Washington Department of Community, Trade and Economic Development. Section 43.330.090, Revised Code of Washington, requires the Department to:

- Expand the tourism industry throughout the State in cooperation with public and private tourism development organizations;
- Work to provide a balance of tourism activities during different seasons of the year throughout the State; and
- Promote, market, and encourage growth in the production of films, videos, and television commercials within the State.

## **West Virginia**

Tourism promotion in West Virginia is the responsibility of a nine-member commission known as the West Virginia Tourism Commission. The Commission, which functions as a public corporation, is administered by the West Virginia Development Office. Section 5B-2-8, West Virginia Code, requires the Governor to appoint eight members to the Commission, including: six members from the private sector to represent the tourism industry; one member from the Council for Community and Economic Development; and one member to represent the public sector non-state participants in the tourism industry. The West Virginia Secretary of Transportation serves as an ex-officio member of the Commission.

Section 5B-2-9, West Virginia Code, requires the Commission to develop a comprehensive tourism promotion and development strategy designed to:

- Diversify and expand the tourism base of the State and improve the tourism climate generally;



- Create tourism jobs and develop a highly-skilled tourism workforce;
- Facilitate business access to capital for tourism;
- Advertise and market the resources of the State with respect to tourism;
- Facilitate cooperation among local, regional, and private tourism enterprises; and
- Leverage tourism promotion funding from local, federal, and private sources.

Section 5B-2-12, West Virginia Code, establishes the Tourism Promotion Fund to provide funding for the direct advertising of West Virginia as a vacation destination. Moneys in the fund can also be used for direct advertising with the various travel regions of the State.

## **Wisconsin**

Tourism promotion in Wisconsin is the responsibility of the Division on Tourism under the Wisconsin Department of Tourism. Section 41.11, Wisconsin Statutes Annotated, requires the Department to:

- Advertise and publicize the State of Wisconsin to other states and foreign countries as a tourism destination;
- Create an accurate national and international image of the State;
- Encourage business, communities, and groups to participate in promoting tourism;
- Report annually to the Legislature on tourism activities and expenditures.

Section 41.12, Wisconsin Statutes Annotated, establishes the Wisconsin Council on Tourism. The law requires the Council to assist the Secretary of Tourism on all matters pertaining to tourism, including:

- Developing a plan to encourage private companies to promote the State as a tourism destination in their advertisements;
- Utilizing the names of famous current/former residents in developing the State's tourism advertising and marketing strategy.

## **Wyoming**

Tourism promotion in Wyoming is the responsibility of the Wyoming Travel Commission. Section 9-2-301, Wyoming Statutes Annotated, establishes the nine-member commission under the Division of Tourism and State Marketing within the Wyoming Department of Commerce.

- Advise the Department of Commerce and the Division of Tourism and State Marketing on matters relating to tourism;
- Assemble and distribute information concerning the scenic and recreational resources of Wyoming; and
- Implement programs to promote tourism in Wyoming.

The law requires the Governor to appoint the members of the Commission to ensure representation of the various regional areas of the State. The Governor serves as an ex-officio, nonvoting member of the Commission.

## Chapter 4

### NON-FUNDING ISSUES: MULTIPLE GOALS

*“All projects involving public funds should be carefully scrutinized to ensure that private beneficiaries pay a substantial portion of project costs and that public investments are matched by concurrent public benefits.”<sup>1</sup>*

This report has reviewed the current status of tourism promotion involving the State and has also looked at what other states are doing in terms of their involvement with the promotion of tourism. This chapter takes a closer look at specific state interests and private interests with regard to tourism promotion and development and how they overlap or diverge. This chapter also examines accountability and measurement of tourism promotion expenditures to assist in arriving at appropriate and responsible funding alternatives.

#### **The Public and Private Sectors — Overlapping and Divergent Interests**

As demonstrated in Chapter 2, there is seldom a total convergence of goals and interests regarding tourism promotion and development on the part of the public and private sectors.

As state funding for the Hawaii Visitors and Convention Bureau (“HVCB”) tourism marketing services has increased over the years, the Legislature has become ever more concerned over both the public sector’s increasing funding as well as how effectively those funds are used. Underlying this concern is the feeling that the interests of the State with regard to tourism promotion and development may not entirely coincide with the interests of the private sector, particularly the HVCB, the State’s designated tourism marketing organization. The State is interested in both promotion and development of the tourism industry. The State is also responsible for setting policy for the future direction of tourism. However, the private sector’s interest appears to focus mostly on shorter-term promotion aimed at generating revenues for the visitor industry, and thus tax revenues for the government. Indeed, the HVCB’s budget is almost totally state-funded and is used not for tourism development, but for marketing and promotion.

---

<sup>1</sup>David Luberoff, “Back to Freight’s Future” in *Governing*, July, 1997, p. 68. Luberoff, assistant director of the Taubman Center for State and Local Government at Harvard’s Kennedy School of Government, was commenting on public investment in intermodal freight transportation projects which are often funded by a mix of public and private moneys. Intermodal freight transportation projects create traffic congestion and air quality problems and their failure can cause extreme financial hardship for the government. But they can also stimulate local economies in general and benefit intermodal transporters in particular. His comment seems to apply to the funding of tourism promotion as well. The local economy is stimulated while tourism industry businesses specifically benefit from public investments. However, tourism can also create pressures on public infrastructure and the environment and failure of, or a poor return on, public tourism investments can cause the State financial problems, especially during fiscally depressed times.

From 1953 to 1990, visitor arrivals to Hawaii have increased at nearly exponential rates. It seemed as if any tourism promotion or development action taken in this nothing-can-go-wrong climate was the right one. As long as visitors kept arriving and spending, there was no need to devise long-term strategies to sustain growth of the industry that almost seemed to sustain itself. Some might even go so far as to maintain that during those years, Hawaii sold itself and tourism would have succeeded regardless of — or even in spite of — what the industry or government did.

Certain external factors may have influenced Hawaii's success as a tourism destination. For example, destinations have a life cycle: every destination eventually matures. Travelers want to experience something new and Hawaii has been around for a long time. Newer destinations compete with Hawaii for business with fresher attractions, lower cost, and greater traveling convenience. Hawaii, like all other tourism destinations, cannot escape the inevitable cycle of growth and maturity. However, it can try to moderate that process by upgrading and re-inventing its product (supply) and maintaining current, and developing new, visitor markets (demand). Only with the recent and sustained decline in the industry has the distinction between longer-term tourism development and shorter-term tourism marketing and promotion gained attention. This is one of the basic differences between the State and the private tourism sector's interests.

## The State's Interests

The State's interests are expressed in various documents. Part VII of chapter 201, Hawaii Revised Statutes, covers tourism. Section 201-93, Hawaii Revised Statutes, specifies the duties of the office of tourism within the DBEDT. Among them are:

- (1) Promoting, marketing, and *developing* the tourism industry in the State;
- (2) *Developing, coordinating, and implementing long-range state policies and directions for tourism* and related activities including the updating of the *state tourism functional plan*;
- (3) Coordinating all agencies and *advising the private sector in the development of tourism-related activities and resources*;
- (4) Arranging for the *conduct of research through contractual services with the University of Hawaii or any agency or other qualified persons concerning social, economic, and environmental aspects of tourism development* in the State;
- (5) Providing technical or other assistance to agencies and private industry upon request;
- (6) Establishing a public information and educational program to *inform the public of tourism and tourism-related problems*;
- (7) Encouraging the *development of educational, training, and career counseling programs in tourism*;
- (8) Establishing a program to monitor and investigate complaints about problems resulting directly or indirectly from the tourism industry and taking appropriated action as needed;
- (9) *Developing and implementing the state tourism marketing plan*;
- (10) Performing other necessary or desirable functions to facilitate the intent of this chapter; and
- (11) Performing other functions required or authorized by law. [Emphasis added]

It is clear that *tourism development*, by nature a long-term enterprise, is a major duty of the State. Likewise is the *development of long-range policies and directions for tourism*. Nonetheless, the State is also tasked to *develop and implement the state tourism marketing plan*. This is a duty of the State, not the HVCB. The HVCB is, or is supposed to be, merely the contracted private entity hired to implement state policy on tourism marketing. In actuality, this has not been the case in the past. The Auditor reported in a 1987 audit that:<sup>2</sup>

The DPED has not budgeted funds for tourism promotion or for a tourism program. Instead, DPED merely forwards HVB's budget request without analysis. The department testifies before the Legislature on HVB's budget request, but there is no analysis of whether the amounts requested for promotion are insufficient, adequate, or too much. The department merely restates the amount requested and the general purpose of the appropriation. In 1985, the director commented in his testimony that while it was impossible to estimate the share of the additional \$300 million increase in visitor expenditures for 1983 for which the HVB was responsible, even a relatively small share would have handsomely repaid the State's investment. The director believed that the investment was repaid many times over.

The Auditor commented that:<sup>3</sup>

This kind of testimony is of little assistance to legislative decisionmakers. It reflects DPED's general lack of concern or information on the impact of funds appropriated to HVB and the effectiveness with which they are expended. The department still has not developed a system for oversight of HVB nor has it identified any more useful measures of effectiveness. Consequently, it has no means of assessing existing promotional efforts or evaluating potential new markets.

In addition to the tourism marketing plan, another plan also reflects state policy: the tourism functional plan. Section 226-8, Hawaii Revised Statutes, establishes the State's overall objectives and policies for the State's economy with regard to the visitor industry. To achieve the visitor industry objective, it is the policy of the State to:

- (1) Support and assist in the promotion of Hawaii's visitor attractions and facilities.
- (2) Ensure that visitor industry activities are *in keeping with the social, economic, and physical needs and aspirations of Hawaii's people*.
- (3) Improve the quality of existing visitor destination areas.
- (4) Encourage cooperation and coordination between the government and private sectors in developing and maintaining well-designed, adequately serviced visitor industry and related developments which are *sensitive to neighboring communities and activities*.
- (5) *Develop the industry in a manner that will continue to provide new job opportunities and steady employment for Hawaii's people*.
- (6) *Provide opportunities for Hawaii's people to obtain job training and education that will allow for upward mobility within the visitor industry*.

---

<sup>2</sup>Hawaii, Office of the Auditor, *Management Audit of the Hawaii Visitors Bureau and the State's Tourism Program*, Report No. 87-14 (Honolulu: February 1987), hereafter referred to as "1987 Audit", pp. 51-52.

<sup>3</sup>Ibid., p. 52.

- (7) Foster a recognition of the contribution of the visitor industry to Hawaii's economy and the need to perpetuate the aloha spirit.
- (8) Foster an understanding by visitors of the aloha spirit and of the unique and sensitive character of Hawaii's cultures and values. [Emphasis added]

It is also clear that, although respectful of the economic bottom line, state policy must also be sensitive to other factors such as social, community, employment, public safety, and environmental needs. Under the Hawaii State Planning Act (chapter 226, Hawaii Revised Statutes), a state functional plan for tourism is specifically mandated in section 226-52(a)(3), Hawaii Revised Statutes. The responsibility for preparing the functional plan is assigned to the director of the DBEDT in section 226-55(a), Hawaii Revised Statutes. Each functional plan is to “identify priority issues in the functional area and shall contain objectives, policies, and implementing actions to address those priority issues.”<sup>4</sup> Economic development is designated as one of five “major areas of statewide concern which merit priority attention.”<sup>5</sup> Under the rubric of economic development, priority guidelines are established for the visitor industry. These are to:<sup>6</sup>

- (1) Promote visitor satisfaction by fostering an environment which enhances the Aloha Spirit and minimizes inconveniences to Hawaii's residents and visitors.
- (2) Encourage the development and maintenance of well-designed, adequately serviced hotels and resort destination areas which are sensitive to neighboring communities and activities and which provide for adequate shoreline setbacks and beach access.
- (3) Support appropriate capital improvements to enhance the quality of existing resort destination areas and provide incentives to encourage investment in upgrading, repair, and maintenance of visitor facilities.
- (4) Encourage visitor industry practices and activities which respect, preserve, and enhance Hawaii's significant natural, scenic, historic, and cultural resources.
- (5) Develop and maintain career opportunities in the visitor industry for Hawaii's people, with emphasis on managerial positions.
- (6) Support and coordinate tourism promotion abroad to enhance Hawaii's share of existing and potential visitor markets.
- (7) Maintain and encourage a more favorable resort investment climate consistent with the objectives of this chapter.
- (8) Support law enforcement activities that provide a safer environment for both visitors and residents alike.
- (9) Coordinate visitor industry activities and promotions to business visitors through the state network of advanced data communication techniques. [Emphasis added]

Again, these priority guidelines do not focus exclusively on bottom line tax revenues generated by short-term marketing and promotion efforts. As expected, traditional public roles involving maintenance of public safety, creating jobs, constructing and improving infrastructure, and

---

<sup>4</sup>Section 226-55(b), Hawaii Revised Statutes.

<sup>5</sup>Section 226-102, Hawaii Revised Statutes.

<sup>6</sup>Section 226-103(b), Hawaii Revised Statutes. Other areas are also covered, e.g. sugar and pineapple, agriculture and aquaculture, water use and development, energy use and development, and the information industry.

creating a favorable investment climate are acknowledged. Also included, however, are admonitions to be sensitive to local communities and to respect, preserve, and enhance Hawaii's significant natural, scenic, historic, and cultural resources. Most, if not all, of these priority guidelines cannot be served by an exclusive emphasis on tourism marketing and promotion.

Although marketing and promotion clearly is not, or should not be, the only function of the State, section 203-5, Hawaii Revised Statutes, requires the office of tourism within the DBEDT to develop and annually update a five-year tourism *marketing* plan that includes:

- (1) Identification and evaluation of current and *future tourism needs* for the different regions of the State;
- (2) Goals and objectives in accordance with identified needs;
- (3) Statewide promotional efforts and programs;
- (4) Targeted markets;
- (5) Measures of effectiveness for the office's promotional programs; and
- (6) Coordination of marketing plans of all destination marketing organizations receiving state funding and departmentally initiated marketing plans prior to finalization of the office's marketing plan. [Emphasis added]

The change from a biennial to a five-year marketing plan was enacted in 1994.<sup>7</sup> This allows for more forward thinking in terms of marketing although it can hardly be considered long-term tourism development. Identifying current and future tourism needs, targeted markets, goals and objectives, and coordinating statewide marketing plans and promotions is a duty and function of the State, not the private sector. Regardless of whether this is done according to a two-year or five-year time horizon, it remains a state responsibility. Nonetheless, the HVCB is popularly and universally misperceived as *the state tourism agency* in Hawaii. No one ever identifies the DBEDT as the responsible state agency, not to mention the DBEDT's office of tourism. The DBEDT and its office of tourism has the duty, authority, and responsibility to develop and promote tourism in the State. It merely contracts with a private entity, the HVCB, to carry out a portion of its mandate — that of tourism promotion. *Marketing and promotion* focus mainly on short-term revenue-producing tactics, and does not emphasize longer-term sustainable growth strategies — a function of tourism *development*.

Perhaps part of the reason for this misperception is that there has been little need in the last fifty years to develop long-range sustainable growth for tourism. Another reason is the unique historical relationship between the State and the HVCB in which the State apparently felt it more appropriate for a private entity to carry out tourism-related activities with partial state funding. A third is that the State has not sufficiently supported its own designated state agency responsible for tourism. As the State's largest industry, tourism does not even rate a division within a department, but only a small office of tourism headed by a tourism manager. A fourth reason is that the Legislature has continually emphasized appropriating funds for promotion at the expense of development. Since promotion, and not development, is the job of the contracted HVCB, the bulk of tourism funding has gone to the HVCB through the office of tourism contracts, leaving the office without the funds or personnel to implement any significant tourism development strategies or

---

<sup>7</sup>Act 67, Session Laws of Hawaii 1994, section 3.

initiatives. The very fact that short-term tourism promotion is perceived by the public, including the media, as the sum and substance of tourism activity in the State highlights the contrasting short shrift given to long-range tourism development.

### **Private Sector Interests**

Understandably, the interests of the private sector are often bottom-line oriented. American companies have routinely been criticized for their historical tendency to focus on short-term return on investment at the expense of long-term business viability and profitability. Cash cows are milked until they run dry — and at the risk of mixing a metaphor — the goose will surely stop laying its profits in golden eggs if it is squeezed too long and too hard without nurturing it properly. If a business component is failing, why spend money to fix or save it when selling it off would excise the problem and enhance the company's bottom-line? Why stop at selling off subsidiaries — why not lay off workers, or transfer capital to other more profitable companies, industry sectors, or geographic regions? Capital is mobile; it has no loyalty. It is normal for businesses to start up and close down, to move in or out of a state every day. Similarly, institutional shareholders of publicly-owned companies should be expected to fulfill their fiduciary duty to protect their clients' investments. In the same way, individual shareholders should not be expected to remain loyal to (and continue to invest in) companies with disappointing profits. A smart investor would remain invested despite current low returns if a company is taking action to ensure future sustainable profitability. Otherwise, there is little point to remain invested. Obviously, this also applies to the health and future of Hawaii's tourism industry. The point is, money is mobile wherever it is invested, including tourism, and it may move elsewhere for "politically incorrect" reasons.

Certainly, individual businesses and industries may take a more enlightened approach. For example, a business may sacrifice immediate profits in favor of spending on research and the development of new products, improving productivity, or fundamental restructuring to position itself to create new markets to ensure future viability and profitability. In addition, businesses may also be affected by factors other than profit maximization. For example, it may choose to continue operating despite losses and a poor outlook for future gains if it considers social, cultural, health, environmental, or other priorities more important than profits. However, to the extent that the business environment generally rewards profits, especially those in the short-term, there is less incentive for businesses to continue unless the level of future profits justifies the cost of fixing the problem.

A reasonable person can assume that the tourism industry, including ours in Hawaii, is no different. To this extent, it seems clear that the State's and the private sector's interests regarding tourism tend to be more compatible when profits are flowing than when they are not. When profits begin to decline, there is a possibility of increasing private capital outflow out of the State. With the State footing the bulk of tourism promotion expenses with public funds, when profits are high and expenditures are low, there is little incentive for private tourism interests to contribute to promoting short-term tourism goals, much less longer-term tourism development. Not surprisingly then, when profits remain low or even decline, there is even less incentive for the private sector to cut into whatever profits the industry can generate.



## Implications for State Responsibility

As mentioned earlier, Hawaii cannot totally escape the cyclical nature of tourism. However, Hawaii can try to restructure its tourism industry to achieve a more balanced approach that emphasizes both long-term tourism development as well as shorter-term tourism promotion. In order to do this, more attention must be paid to developing longer-term strategies to sustain future growth in the industry. This includes redesigning and “reinventing” Hawaii as a product so that it holds a new attraction to both first-time and repeat visitors. Much has been said about catering to “niche” markets such as cultural tourism, eco-tourism, edu-tourism, sports tourism, etc. These efforts are an attempt at remaking the image of Hawaii as a tourism destination. In addition to the sun, surf, and sand, Hawaii must offer more to distinguish itself from other sun, surf, and sand destinations that are newer, cheaper, and easier to get to. Encouraging the development of a variety of “niche” attractions, with perhaps some public funds, would help Hawaii achieve a competitive advantage over other destinations that offer the same generic sun, surf, sand, and shopping. This type of tourism development would be a step in the right direction in addressing the supply side of the tourism equation.

To address the demand side, Hawaii must research and develop new visitor markets in addition to merely attempting to sustain current markets. It is well-known that the health of tourism in Hawaii depends greatly on the Japanese economy and the travel and spending habits of Japanese visitors. Much of the decline in Hawaii’s tourism in the last decade can be attributed to the decline and continuing stagnation of the Japanese economy. For Hawaii, the Japanese visitor market has been the dominant one from an economic perspective, with Japanese visitors spending more per day than any other visitors. On the other hand, for at least the past decade, much has been reported in the media and the press about the phenomenally successful economies in the Asian Pacific other than Japan. For example, Hong Kong, Taiwan, Singapore and Korea, the four tigers of Asia, have sustained tremendous economic growth for at least the last twenty years. Nonetheless, lacking a strategy for long-range tourism development, Hawaii has made no serious attempt to develop these visitor markets that may help offset the declining Japanese market. Neither the State nor the private sector has done this. The HVCB contends that tourism development is not its job. By law, the State is required to pursue both development and promotion. However, the State has lacked the will to properly fund and support its own state agency to carry out more than just short-term marketing and promotion. The State has not, or has not been able to, fully carry out all its tourism duties. In earlier good times, it was enough to market a destination that visitors wanted to come to anyway.

In 1993, the Auditor, in a follow-up study of the Hawaii Visitors Bureau, found that:<sup>8</sup>

Both the Hawaii Visitors Bureau (HVB) and the Department of Business, Economic Development and Tourism (DBEDT) have fallen short in fulfilling their respective responsibilities for the State’s tourism program.

1. The HVB board of directors has been weak and exercised little oversight over HVB.

---

<sup>8</sup>Hawaii, Office of the Auditor, *Management and Financial Audit of the Hawaii Visitors Bureau*, Report No. 93-25 (Honolulu: December 1993), hereafter referred to as “1993 Audit”, p. 5.

2. HVB's marketing efforts are weakened by unclear functions and underutilization of its own market research information. HVB has yet to resolve the status and roles of its regional offices on the mainland and its chapters on the neighbor islands.
3. HVB reports do not comply with requirements in its contract with DBEDT and do not show whether public funds are properly and effectively utilized.
4. In the absence of strong HVB board and management leadership, DBEDT has begun to direct HVB to undertake certain programs. This conflicts with DBEDT's responsibilities for monitoring the HVB contract.

With respect to item (1), the Auditor reported that it believed proposed new changes to increase the HVCB board's accountability and responsibility can "begin to address weaknesses in board operations."<sup>9</sup> With respect to item (3), the Auditor found that contract-required reports were:<sup>10</sup>

. . . not useful, and they are not in compliance with contract requirements. They fail to compare anticipated results with the funds spent. As a result, the State cannot be assured that it is getting its money's worth from HVB. . . . The annual report to DBEDT is supposed to present information on HVB's oversight of programs conducted by affiliated offices and on the results anticipated and achieved. This is not done — there are no annual reports. . . . Since the bureau's reports are not in compliance with contract requirements, whether state funds are being used effectively cannot be determined. According to contract specifications, annual reports should included information on the anticipated an actual results of a project. Associated costs should also be reported to assess cost-effectiveness. *[The Auditor disagreed with the HVB and the DBEDT's stand that on-going verbal communication between the two prior to the Auditor's report satisfies the requirement for the annual report.]*

The Auditor also faulted the DBEDT for not carrying out its oversight responsibility:<sup>11</sup>

Because DBEDT is not carrying out its responsibility to oversee HVB performance, the Legislature is not receiving the information it needs. The DBEDT reports on tourism do not meet legislative reporting requirements. Section 201-95, Hawaii Revised Statutes, requires the DBEDT Office of Tourism to review and report to the Legislature on expenditures of public funds by the HVB or any other visitor industry organization to ensure the effective use of funds for the development of tourism. The office is to prepare annually a report of expenditures including descriptions and evaluations of programs funded. We find that the DBEDT reports do not address the effective use of funds. The information in DBEDT's reports is not useful to the Legislature since the reports fail to link expenditures on promotional activities with any outcomes or expected results.

---

<sup>9</sup>1993 Audit, p. 8.

<sup>10</sup>Ibid, pp. 11-13.

<sup>11</sup>Ibid., p. 13.

With respect to item (4), the Auditor found that:<sup>12</sup>

The DBEDT demonstrates a serious lack of clarity about its role in the State's tourism program. It does not differentiate between its responsibilities to monitor HVB and its responsibilities for state tourism initiatives.

This lack of clarity about the State's role results from several factors. First, there is confusion over who is in charge. The State's responsibility for planning and implementing long-range tourism development is clear; so is its duty regarding oversight and monitoring of contract performance. Development was not seen as necessary when tourism in Hawaii was booming and in the early phases of its life cycle. All that seemed to be needed was to feed that growth with marketing and promotion. Historically, the State has always depended on the HVCB to do that work. As a result, tourism has been and continues to be identified throughout the State and throughout the tourism industry with the HVCB and not the DBEDT's office of tourism.

The State has not adequately monitored its contracts with the HVCB because of its almost traditional dependence on the HVCB. Even if it wanted to, the DBEDT's resources (currently the office of tourism), pales in comparison with the size, funding, and expertise of the HVCB, a private entity.

Even if the State limited itself to marketing, it has not adopted a policymaking role. Presumably, by developing the tourism marketing plan, the office of tourism assumes the lead role in determining tourism development goals and objectives. These specific goals and objectives are then translated into the terms and conditions of the tourism marketing contract with the HVCB. In other words, it is the State — through the DBEDT's office of tourism — and not the HVCB that should set Hawaii's tourism marketing goals and objectives. The only purpose of the HVCB or any other contracted entity should be to carry out the tourism objectives set by the State as expressed through the marketing contract.

### **Divergent Public and Private Interests**

The question of who is responsible for long-range tourism development and its implementation has been ignored, and underlines how the interests of the State and the private sector may sometimes diverge. The question of who sets policy and who implements it is also important for the same reason. There are several useful ways of looking at these differences. One is long-term vs. short-term. Any efforts that eventually generate an increase in tourism (tax revenues for the government and profits for the industry) are generally welcomed by both the public and the private sectors. However, the State is, or should be, also interested in longer-term efforts to improve tourism and to do so in the context of protecting or enhancing the State's resources.

First, private visitor businesses and organizations understandably tend to be interested in the bottom-line. Specific marketing and promotional efforts are used to generate shorter-term profits.

---

<sup>12</sup>Ibid., p. 13.

If publicly-traded corporations, these businesses are accountable to their shareholders. If subsidiaries or part of larger national businesses or chains, they may owe primary allegiance to their own parent organizations or shareholders who may not have a strong interest in the continued long-term health of tourism in Hawaii. For example, shareholders of visitor industry companies need not be Hawaii residents nor are they required to have a long-term vested interest in Hawaii's tourism industry. When things go bad, they can sell their shares. So, although investment in the long-term health of tourism in Hawaii is ultimately in the best interest of visitor industry businesses, their focus on shorter-term profits does not make long-term investment a compelling issue. In addition, visitor industry-related businesses that are subsidiaries of mainland organizations or are part of national chains may at times sacrifice their local interests to those of parent interests. For example, the overall strategy of such an organization may dictate a reallocation of resources to other more profitable visitor destinations and away from Hawaii.

Second, private visitor industry businesses have a relatively low interest in providing a public good — that is, direct investment in public infrastructure that serves everyone's needs, both residents and visitors alike. Improving and maintaining public infrastructure is necessary to guarantee the health, safety, and welfare of all and the continued normal operation of commerce and daily living. It is also necessary to meet and serve the demands of visitors who fuel private visitor industry profits. Traditionally, the provision of public goods has been considered the responsibility of government — financed by taxes spread over the general tax base. However, Hawaii's circumstances are relatively unique. On the one hand, the visitor industry accounts for approximately one-quarter of the State's total economy, jobs, and tax revenues. On the other hand, it places a correspondingly heavy demand on public infrastructure.

This fact constitutes a double-edged argument for both increased private funding and for continued public funding for tourism promotion. On the one hand, those who want to increase private contributions (and decrease public funding) would argue that the visitor industry places a very large and disproportionate demand on public infrastructure. Government is paying for tourism promotion that profits the private sector while the latter has free and disproportionate use of government-funded public infrastructure. That is, other economic sectors and the general public are, in fact, subsidizing one very large sector — the tourism industry. Granted, the private visitor industry generates visitor industry-related taxes. However, their revenues and profits are gained at the expense of tourism promotion and public infrastructure paid for by public funds subsidized disproportionately by other economic sectors and the general public. Simply put, the visitor industry is getting a free ride on the coattails of government tourism and infrastructure spending.

On the other hand, those who want to continue government funding (and not increase private contributions) may argue that public infrastructure is indeed a public good that benefits everyone. Consequently, its maintenance should remain a public, and not a private, responsibility. They may argue that, as the single largest component of the State's economy, the industry contributes its fair share via various taxes including the transient accommodations tax that support all public expenditures, including public infrastructure upkeep. Any significant decline in the industry would seriously affect these public revenues.

The private sector may be more inclined to increase their contributions if it has more of a say in how its private dollars are spent. *[The recent proposal by the Outrigger Hotel group for a two-*

*year \$20,000,000 private fund to boost statewide tourism, not just for promoting specific sectors of the industry, is a welcome change from the industry's historical dependence on legislative appropriations.]* Merely pooling private contributions with state funds or using them as private matching funds for state-directed expenditures misses the point. More say over how their private contributions are used may even ease resistance against beginning to invest in longer-range tourism development and not just in immediate bottom-line profits. The key is to create some viable mechanism for public-private funds to be used effectively. Private interests would want more control — something other than wholly state-directed appropriations spending with a requirement for private funds matching. On the other hand, the State would not want to replicate the mechanism by which public funds are given to a private organization the way the State gives money to the HVCB.

For example, private sector visitor businesses in Waikiki may wish to enhance visitor safety and reduce the annoyingly visible prostitution problem in the area. Increasing police presence and reforming or streamlining police, judicial, and other procedures may help accomplish this objective for which private interests can easily justify monetary contributions. However, businesses cannot just pay the city to “hire” more police officers and the city cannot hire itself out like a private security firm. Some sort of meeting of minds must occur wherein both sides recognize common interests and goals — where public policy is served through a joint private-public venture or program. Government must ensure the accountability of the expenditure of public funds but do so without imposing undue restrictions that may hamper effective program action. On the other hand, the private sector must cooperate with government to ensure this accountability and must recognize that it needs to contribute its fair share. At times, the public and private sectors share certain common goals. When this occurs, the two can partner in innovative, not necessarily traditional, ways to meet specific shared goals. No matter whose money is involved and how they are expended, there must be accountability and ways to measure whether funds have been spent responsibly and effectively.

## **Accountability and Performance Evaluation**

S.R. No. 124, S.D. 1 (1997) resolves that the Bureau “recommend ways of improving accountability and the measurement of performance targets and objectives” in the context of various options to fund and manage Hawaii’s tourism promotion and marketing program. Accountability is being able to precisely show and justify, programmatically or budgetarily, that specific actions were taken (or specific amounts were expended) in compliance with any explicit or implicit programmatic or expenditure restrictions or guidelines. “Measurement of performance” has to do with seeing whether or not those programmatic actions or fund expenditures achieved the goals and objectives that were set.

Affirming accountability for HVCB program actions requires examining program reports from the DBEDT and HVCB to see if the terms of the contract between the State and the HVCB have been met. Affirming accountability for HVCB expenditures ideally requires an audit of the HVCB budget, or at least an examination of HVCB reports on expenditures for tourism promotion programs. At a minimum level, accountability is being addressed.

Evaluating performance is somewhat more complicated. First, program results are measured against original goals and objectives. However, a fair evaluation depends on *whose* goals are measured. Although the DBEDT's office of tourism is nominally in charge of tourism promotion, it has always contracted the work out to the HVCB. The existence of a signed contract implies that the two signatory parties have agreed on the contract's terms — the goals, objectives, and programs of action to be implemented. However, policy setting is muddled at best. The DBEDT is statutorily tasked with overall state responsibility for tourism, including shorter-term marketing and promotion and long-range tourism development. The DBEDT is also responsible for monitoring the HVCB's sphere of contractual activity — that of tourism marketing and promotion.

The history and success of the DBEDT's monitoring of HVCB's marketing contracts are separate issues. Monitoring implies several component actions. One of them is evaluating whether or not program actions or budget expenditures achieved their contractual goals. First, it is crucial to have pre-set goals and objectives clearly spelled out in the State's contracts. Second, how those goals are measured presents a challenge. There have been studies that use broad measures of gross investment vs. gross return on investment which do not break down and analyze how successfully legislative appropriations are expended. Other types of studies attempt to focus on the effect of specific marketing techniques on visitor arrivals commonly called conversion studies which are discussed below. Problems exist in the current system due to lack of clearly defined contractual goals.

### **Previous Evaluations of Performance — 1987 and 1993 Audits**

In 1987, the Auditor conducted a management audit of the Hawaii Visitors Bureau (HVB) and the State's tourism program.<sup>13</sup> In 1993, the Auditor conducted a follow-up management and financial audit of the Hawaii Visitors Bureau.<sup>14</sup>

**1. Auditor's 1987 Audit:** The 1987 Legislature, through a provision in Act 345, Session Laws of Hawaii, 1986, directed the Auditor to conduct a management audit of the Hawaii Visitors Bureau, one objective of which was to assess the effectiveness of the programs and operations of the HVB. In the 1987 audit, the Auditor listed five purposes for conducting travel research:<sup>15</sup>

- (1) To produce a meaningful profile of visitors in order to determine the motivation of travelers to a particular destination;
- (2) To identify more specific market segments;
- (3) To forecast future demand;
- (4) To assess the impact of any potential barriers to travel; and
- (5) Research the effectiveness of their advertising and promotional strategies.

---

<sup>13</sup>1987 Audit.

<sup>14</sup>1993 Audit.

<sup>15</sup>1987 Audit, pp. 8, 10.

Regarding measurement of the effectiveness of tourism advertising and promotions, the Auditor commented on two methods used by the industry. One involves so-called “conversion” studies. This method first stimulates inquiries which are then followed-up to determine whether or not specific advertising had actually been “converted” into visitor expenditures.<sup>16</sup> A second method involves:<sup>17</sup>

. . . telemarketing using toll free ‘800’ numbers for inquiries and to obtain additional information on the potential traveler. Requests for information on the destination are often met by ‘fulfillment centers’ under contract. . . . The list is then used for direct mail promotion and is also provided to travel operators and agents.

In its review of fourteen prior tourism studies dating from 1957,<sup>18</sup> the 1987 audit reported that, in reviewing state appropriations for the tourism program in 1979, the Senate Committee on Tourism found that:

. . . the heavy emphasis on promotion, advertising, and special events to achieve the visitor industry goals of the State Plan was an area warranting further investigation. . . . although DPED [*the then Department of Planning and Economic Development*] was theoretically setting the direction and priorities for the program, the level of monitoring and guidance by DPED was inadequate. Instead of initiating policies and direction, DPED’s role had generally been one of reacting to proposals by HVB and the advertising agency. The committee noted that *DPED lacked specific guidelines for HVB and meaningful measures of effectiveness*. Data on the mere numbers of visitors was not useful for assessing performance. The department also lacked guidelines for funding special events . . . . The committee recommended that . . . DPED develop meaningful measures of effectiveness . . . [Emphasis added]

The 1987 audit found that the DPED was responsible for implementing the tourism functional plan of promoting Hawaii’s attractions and maintaining and enhancing Hawaii’s share of visitor markets. The DPED was to do this by budgeting funds to effectively market the State, assessing existing promotional efforts, and locating and evaluating potential new markets. The Auditor found that:<sup>19</sup>

However, DPED has not budgeted funds for tourism promotion or for a tourism program. Instead, DPED merely forwards HVB’s budget request without analysis. The department testifies before the Legislature on HVB’s budget request, but there is no analysis of whether the amounts requested for promotion are insufficient, adequate, or too much. The department merely restates the amount requested and the general purpose of the appropriation. In 1985,

---

<sup>16</sup>Ibid, p. 10.

<sup>17</sup>Ibid.

<sup>18</sup>Ibid., pp. 40-49. The then Department of Planning and Economic Development also reported in 1978 that there had been fifteen separate studies since 1906 dealing with tourism and problems associated with planning for the industry, p. 39.

<sup>19</sup>Ibid., pp. 51-52.

the director commented in his testimony that while *it was impossible to estimate the share of the additional \$300 million increase in visitor expenditures for 1983 for which HVB was responsible*, even a relatively small share would have handsomely repaid the State's investment. The director believed that the investment was repaid many times over. This kind of testimony is of little assistance to legislative decision makers. It reflects DPED's general lack of concern or information on the impact of funds appropriated to HVB and the effectiveness with which they are expended. *The department still has not developed a system for oversight of HVB nor has it identified any more useful measures of effectiveness.* Consequently, it has no means of assessing existing promotional efforts or evaluating potential new markets. [Emphasis added]

The Auditor further cited the 1987-1989 HVB budget as "the worst example yet of poor budget preparation at HVB" and found ". . . it was hurriedly put together, without any explanation of where each department's request fits in an overall HVB plan, without any element of accountability for results should the requests be granted. . ."<sup>20</sup> Reportedly, HVB staff were given as little as a half day's notice to prepare departmental budgets for the 1987-1989 fiscal biennium for \$15,000,000 per year in state funds. The Auditor reported that, in effect, the staff were asked for their wish lists. Furthermore,<sup>21</sup>

. . . there was no interface with the strategic marketing plan being worked on at the same time by the boards' marketing subcommittee. The upper leadership levels of HVB compiled the departmental wish lists, approached the Governor, then DPED, and made the budget request public. . . . Next, HVB added the specific requests from its staff ranging from . . . \$5,000 to replace a typewriter and a desk [to] *\$6,998,400 and \$7,198,400 for advertising in the next two years. But the justifications are vague. For example, the justification for the large, additional advertising request merely states that for FY 1987-88, '\$5,098,000 would be used for the western and other markets, \$400,000 for the conventions market, and \$1,500,000 for the Asia/Pacific market.'* . . . . If meaningful budget review is to be conducted by DPED as well as the Legislature, the HVB budget must present more information than it currently does. . . . At the minimum, we believe that *HVB should be required to develop and present objectives for each of its programs, measures to determine the extent to which the objectives are being achieved*, program data which have a bearing on the costs of HVB's programs, and informative discussion on the direction of the programs and the program policies being pursued. [Emphasis added]

It is difficult to measure the effectiveness of advertising and promotion strategies when the State's contracts with the HVB do not specify or ask for assessments of how funds are expended. The 1987 audit further reported that contract conditions were not enforced. DPED did require the HVB to submit "numerous materials" including "monthly summary reports of all HVB programs

---

<sup>20</sup>Ibid., p. 111.

<sup>21</sup>Ibid., pp. 112-113.



including an analysis of their effectiveness” but the Auditor found that “the purpose for all these requirements is not clear.”<sup>22</sup> Consequently, the Auditor recommended that:<sup>23</sup>

The department must also establish more meaningful measures of effectiveness. It should have an independent monitoring system or a separate means of verifying the effectiveness of some of HVB’s promotional activities, such as conducting conversion studies.

The Auditor also recommended that the board of directors of the HVB “establish and maintain an evaluation function to include standards for evaluating the performance of the bureau’s president, receiving and reviewing the annual financial audit, and instituting a cycle for reviewing all of the bureau’s programs.”<sup>24</sup>

***Lack of Monitoring and Evaluation Procedures for the HVB’s Marketing Program:*** According to the Auditor’s 1987 report, the HVB, in one of its publications, acknowledged as one of its objectives:<sup>25</sup>

To measure the effectiveness and results of promotion and marketing activities in order to confirm the value of Hawaii’s expenditures for tourism.

In another HVB publication, the HVB further stated that one of the primary objectives of its strategic marketing plan for fiscal years 1987 to 1989 is to facilitate the evaluation of HVB’s marketing activities.<sup>26</sup> That publication devoted an entire chapter to monitoring systems while the marketing plan itself stated:<sup>27</sup>

The measurement of return on marketing programs has only recently come into practice among state tourism organizations. Techniques are now in use to track these activities which could be adopted by the HVB. . . . The objective of monitoring systems is to measure the impact of the marketing strategies and to determine the qualitative and quantitative results. . . . Monitoring systems would track the various aspects of the marketing program: advertising, sales promotions and communications.

Nonetheless, in its 1987 report, the Auditor found that:<sup>28</sup>

---

<sup>22</sup>Ibid., p. 66.

<sup>23</sup>Ibid., p. 69.

<sup>24</sup>Ibid., p. 92.

<sup>25</sup>Ibid., p. 137, citing Hawaii Visitors Bureau. *Hawaii Visitors Bureau 1986/1987 Marketing Program* (Honolulu: 1986), p. 1.

<sup>26</sup>Ibid., p. 137, citing Hawaii Visitor’s Bureau. *Strategic Marketing Plan Fiscal Years 1987 to 1989*.

<sup>27</sup>Ibid., p. 138.

<sup>28</sup>Ibid., pp. 118; 138.

The Bureau's marketing program has not developed or implemented any formal monitoring and evaluation procedures or mechanisms to determine the effectiveness of its marketing activities. [D]espite the acknowledged importance of a monitoring/evaluation system, the HVB marketing program does not contain an integral evaluation system. Instead, HVB relies on such vague ideas as the health of the industry and such haphazard methods as what people tell them. While senior bureau officials acknowledged the lack of a monitoring system, they claim at the same time that the overall success of the bureau during the last five years [1982 to 1987] — the increase in visitors and the growth of expenditures and tax revenues generated by these visitors — all indicate that the HVB marketing program must be working.

According to the Auditor, the HVB's advertising program is the largest and probably the single most important component of its marketing effort. Nonetheless, in its 1987 audit, the Auditor reported that the HVB's advertising program was not subject to any kind of formal and ongoing monitoring or evaluation. The Auditor cited one researcher's finding that:<sup>29</sup>

Many aspects of Hawaii's visitor industry have been studied. But until now, no systematic effort has been made to determine the effectiveness of HVB's advertising programs.

*[With additional appropriations from the Legislature, the HVB finally tested the tip-in card approach in the fall of 1986. By this technique, readers could request HVB literature and participate in a sweepstakes drawing for a free trip to Hawaii.]*<sup>30</sup>

Several of the HVB's own marketing committee members acknowledged the lack of a monitoring and evaluation mechanism for the bureau's marketing program. One member noted that “. . . using increased visitor counts as a gauge of HVB's success was inadequate.”<sup>31</sup>

***Evaluation Measures and Techniques:*** The Auditor presented the following basic evaluation measures in its 1987 audit:<sup>32</sup>

- Market share — a measure of performance relative to that of competitors;
- Sales analysis — comparing sales variations by geographic and demographic breakdowns, etc.;
- Distribution cost analysis — determining the relative profitability of the current ways of operating;
- Measures of customer satisfaction — through surveys, customer panels, and other market feedback.

---

<sup>29</sup>Ibid., p. 139, citing Henry Man-Kwong Mok. *The Effectiveness of Destination Advertising: The Case of Hawaii's "City Magazine" Campaign*, doctoral dissertation, University of Hawaii (Honolulu: December 1986), p. 2.

<sup>30</sup>Ibid., pp. 139-140.

<sup>31</sup>Ibid., p. 140.

<sup>32</sup>Ibid., p. 140.

With regard to measuring the effectiveness of advertising, the Auditor cited three evaluation techniques: communication effect research, sales effect research, and conversion studies. The purpose of communication effect research is to examine whether the advertising is achieving its intended effect through either pre-testing or post-testing (before or after the advertisement). Pre-testing allows adjustments to improve the advertisement before formal release and involves techniques such as direct ratings, portfolio tests, and laboratory tests. Post-testing techniques include recall and recognition tests.<sup>33</sup>

Sales effect research is used to measure the effect of advertising on the organization's sales through a historical approach in which past data are statistically analyzed and through experimental design measuring the effects of varying levels of advertising expenditures on sales in different areas. Conversion studies attempt to determine how many inquirers from travel advertisements (coupons, addresses, toll-free telephone numbers) are converted into actual visitors. According to the Auditor, conversion studies are useful for comparing the relative performance of different types of advertisements.<sup>34</sup>

Accordingly, the Auditor recommended in its 1987 report that:<sup>35</sup>

The bureau, as expeditiously as possible, develop, implement, and utilize formal, systematic, and ongoing monitoring and evaluation procedures to assess the efficiency and effectiveness of all facets of its marketing program.

In its response to the 1987 Audit, the HVB replied, in part:<sup>36</sup>

As a theoretical matter, the HVB agrees that the development of formal, ongoing monitoring and evaluation procedures for advertising programs would be desirable. Where feasible and financially justified, the HVB has conducted tests to determine the effectiveness of specific programs, such as pre-testing of the database marketing program. But as a practical matter, conversion studies of the HVB's advertising program would probably be too costly and of questionable value, and the HVB would prefer to have its limited funds and resources used first and foremost to develop and implement the marketing program.

**2. Auditor's 1993 Audit:** The 1993 Legislature, through House Concurrent Resolution No. 284, directed the Auditor to conduct a management and financial audit of the HVB to determine

---

<sup>33</sup>Ibid., pp. 140-141.

<sup>34</sup>Ibid., p. 141. The DPED's response, dated February 18, 1987, to the *1987 Audit* stated that: "As to the contract specifying performance monitoring, the very small size of the state funded advertising effort prior to 1986 did not lend itself to the relatively high cost of conventional monitoring methods such as post-visit surveys. Beginning with the FY 1986-87 budget, the HVB has developed a data-base inquiry response system that can be used to perform limited conversion analysis. This expensive process is not justified by the increased level of spending for advertising." (Presumably, the database would facilitate a better understanding of visitor desires and enable the HVB to market directly to survey respondents.)

<sup>35</sup>Ibid., p. 143.

<sup>36</sup>HVB letter to the Auditor, dated February 17, 1987, p. 15, as included in the *1987 Audit*, p. 218.

whether the large and consistently increasing public appropriations to the HVB have been used effectively. Two of the four objectives of the 1993 Audit were to:<sup>37</sup>

2. Assess whether current HVB funding and its coordination with the State provide sufficient accountability for effective use of public funds.
3. Determine whether the reports issued by HVB provide adequate information to evaluate whether public funds are being properly and effectively utilized. . .

With regard to evaluating the effective use of public funds, the Auditor placed relatively greater emphasis on the need for the DBEDT to properly monitor and enforce contract requirements regarding measures of effectiveness than on the HVB's performance. For example, the Auditor found that the reports the DBEDT require of the HVB are not useful and not in compliance with contract requirements. These reports also:<sup>38</sup>

. . . fail to compare anticipated results with the funds spent. As a result, the State cannot be assured that it is getting its money's worth from HVB. . . . [contracted for] quarterly reviews of programs and projects [must] include analyses of program and project effectiveness, and annual reports [must] include anticipated results [and] actual results. . . . The quarterly reviews . . . merely list activities performed. They give no information on what was intended to be achieved by the activities and their costs. Without such information, a reader would have no basis for assessing the effectiveness of HVB programs. None of the reports include [*sic*] an analysis of any program's effectiveness as required by the DBEDT contract. . . . "The annual report to DBEDT is supposed to present information on HVB's oversight of programs conducted by affiliated offices and on the results anticipated and achieved. This is not done — there are no annual reports. . . . Since the bureau's reports are not in compliance with contract requirements, whether state funds are being used effectively cannot be determined. According to contract specifications, annual reports should include information on the anticipated and actual results of a project. Associated costs should also be reported to assess cost-effectiveness. But written annual reports do not exist, and quarterly reports omit this information.

The Auditor also faulted the DBEDT for not carrying out its responsibility to oversee HVB performance, citing DBEDT's reports on tourism as not meeting legislative reporting requirements. The DBEDT's office of tourism is required by law to review and report to the Legislature on expenditures of public funds by the HVB or any other visitor industry organization to ensure the effective use of funds for the development of tourism. However, the Auditor found that:<sup>39</sup>

. . . the DBEDT reports do not address the effective use of funds. The information in DBEDT's reports is not useful to the Legislature since the reports fail to link expenditures on promotional activities with any outcomes or expected results.

---

<sup>37</sup>1993 Audit, p. 3.

<sup>38</sup>Ibid., pp. 11-13.

<sup>39</sup>Ibid., p. 13.

In addition, the Auditor cited the DBEDT for lacking written policies specific to HVB on how to carry out its responsibility of administering and monitoring its HVB contract. Although many documents that are required by contract are submitted properly by the HVB, the Auditor found “. . . no record in DBEDT files to show what was received or if contract conditions were being met.”<sup>40</sup> The Auditor disagreed that monitoring can be properly accomplished by verbal communications and regular meetings between DBEDT and HVB staff that leave no record of monitoring activities. The Auditor reiterated a finding in its 1989 Management and Financial Audit of the State Tourism Office, Department of Business and Economic Development:<sup>41</sup>

Inadequate monitoring by DBEDT is a long standing problem. In our 1989 audit, we found that DBEDT’s Office of Tourism lacked adequate measures of effectiveness and a monitoring system. We recommended that the office develop a formal system for monitoring and evaluating its contracts. The department should take immediate steps to see that this is done.

In its recommendations, the Auditor placed the responsibility of monitoring and evaluating promotional programs and their effectiveness more on the DBEDT than on the HVB. In part, the Auditor recommended that the DBEDT:<sup>42</sup>

1. Develop written guidelines for monitoring and managing contracts with the HVB and other promotion agencies and that guidelines should require submissions to be in written form;
2. Enforce contract reporting requirements for the HVB, requiring reports to be in written form unless otherwise specified and that they include measures of effectiveness on how public funds are being used; and
3. Improve management of tourism promotional programs by submitting annual reports to the Legislature that contain the information requested by the Legislature on tourism promotion programs and their effectiveness.

As for the HVB, the Auditor reported that the HVB underutilizes its own resources but, at the same time, can be capable of evaluating the effectiveness of its promotional activities. For example, the Auditor reported that the HVB successfully planned a marketing approach and set up an evaluation of that approach in the case of a Canadian promotion. Specifically, the HVB took advantage of the expertise of its own market research staff to identify eight key selling points for Canadians and then integrated them into a complete Canadian marketing approach with measures of effectiveness. The Auditor urged that:<sup>43</sup>

---

<sup>40</sup>Ibid., p. 16.

<sup>41</sup>Ibid.

<sup>42</sup>Ibid., p. 17.

<sup>43</sup>1993 Audit, p. 11.

The bureau could apply similar expertise to plan and assess results of other marketing programs as well as its own departments and offices. The resources could also be used to determine how effectively public funds are being spent on promotional programs.

In its response to the 1993 Audit dated December 27, 1993, the HVB replied that:<sup>44</sup>

1. It was currently reviewing and revising all of the reports it is required to submit;
2. Evaluation criteria were being developed in order to measure the effectiveness of marketing expenditures for each major geographic region against the Visitor Revenue Objectives for each region; and
3. Quarterly reports submitted to the DBEDT in the 1993-1994 fiscal year would use the new measures of effectiveness.

The HVB also reported that it was making more use of its market research department and coordinating its activities much more closely with its marketing department to improve the focus and effectiveness of advertising campaigns. The market research department was also being used to examine the effectiveness of advertising campaigns by measuring results in the areas targeted.

## Evaluating Performance

Various attempts have been made to measure the effects of Hawaii's tourism marketing and promotion efforts. In the past, specifically in 1979, the Senate Committee on Tourism found that the heavy emphasis on promotion, advertising, and special events to achieve the visitor industry goals of the State Plan warranted further investigation. The Committee noted that the level of monitoring and guidance by the Department of Planning and Economic Development was inadequate and that the DPED lacked specific guidelines for HVB and meaningful measures of effectiveness. The Committee found that data on the mere numbers of visitors was not useful for assessing performance and, as a result, it recommended that the DPED develop measures of effectiveness that were meaningful.<sup>45</sup>

Tourism promotion activities are undertaken by a host of players, which compounds the difficulty of evaluating their effectiveness. For example, hotels, airlines, restaurants, retailers, and other businesses at particular destinations have engaged in cooperative tourism research and marketing. The Auditor's 1987 report cited the Kaanapali Beach Operators Association, the Kona Visitors Association, the Hilo Hawaii Visitor Industry Association, the Poipu Beach Resort Association, the North Shore Association of Kauai, and the Destination Molokai Association, among others.<sup>46</sup> For example, in 1982, Hawaii county cooperated with United Airlines to promote the Big

---

<sup>44</sup>HVB letter to the Auditor, dated December 27, 1993, p. 4, as included in the *1993 Audit*, p. 26.

<sup>45</sup>*1987 Audit*, pp. 45-6.

<sup>46</sup>*Ibid.*, pp. 28-9.

Island. The Auditor reported in 1987 that an increase in visitors to the Big Island in 1983 was believed attributable to a specific promotion:<sup>47</sup>

... in 1982, Hawaii County was spending \$75,000 to promote itself. Research showed that mainland travel agents needed more specific information on the Big Island. To meet this need, the county joined with United Airlines in a half-million dollar marketing program in which they produced a 16-page brochure on 'The Story of the Big Island' for travel agents and independent travelers. The campaign generated 70,000 orders for the brochure from individuals; 80,000 were distributed to travel agents. *It is believed* that the increase in visitors to the Big Island the following year was largely attributable to its marketing efforts. [Emphasis added]

However, it is unclear whether the visitor increase was actually affirmed through some form of measurement instrument or whether it was merely assumed because a promotion had taken place.

Other studies have been carried out to assess the costs and benefits of Hawaii's tourism industry. One such study was reported in the Auditor's 1987 audit of the HVB. This was a study commissioned by the Department of Planning and Economic Development in 1970 with Mathematica of Princeton, New Jersey. That study concluded that the benefit-cost ratio of visitors to Hawaii was well above the breakeven point, but there was reason to expect it to decline in the future primarily because of the rising cost of public services and in-migration to meet service labor requirements.<sup>48</sup> (In 1985, the Legislature, through a proviso in that year's appropriations act, required the DPED "to review and analyze the costs and benefits of tourism and to develop and establish a system to monitor and make recommendations to assure that tourism development and activities enhance, rather than adversely affect, the quality of life of Hawaii's residents.")<sup>49</sup>

Strictly speaking, these studies do not specifically measure the direct impact of visitor marketing or promotional activities. Rather, they measure the effect of the tourism industry as a whole on the overall state economy (benefits) in the context of total governmental contributions in terms of government-financed infrastructure and public services (costs).

**Macroeconomic Cost-Benefit Study:** The most recent and comprehensive study of this type was done in 1996. In March, 1996, the World Travel & Tourism Council<sup>50</sup> and a group of Hawaii-based businesses and tourism-related organizations sponsored the State of Hawaii Travel & Tourism:

---

<sup>47</sup>Ibid., p. 29.

<sup>48</sup>Ibid., p. 41.

<sup>49</sup>Ibid., p. 48.

<sup>50</sup>The World Travel & Tourism Council is a self-described "coalition of chief executive officers from all sectors of the Travel & Tourism industry including accommodation, catering, entertainment, recreation, transportation and travel-related services [whose] goals are to convince governments of the strategic and economic importance of Travel & Tourism, to provide environmentally compatible development and to eliminate barriers to growth of the industry." World Travel & Tourism Council. *State of Hawaii Travel & Tourism: A New Economic Perspective* (London: March, 1996), hereafter referred to as WEFA Study, inside back cover.

A New Economic Perspective. The study itself was undertaken by the WEFA Group.<sup>51</sup> WEFA used a thirteen-member technical review team, of which the Department of Business, Economic Development, and Tourism contributed five members, the University of Hawaii, four, and the following groups, one member each: Office of State Planning, Bank of Hawaii, the First Hawaiian Bank, and GMP Associates.

The WTTC/WEFA study, purportedly the first of its kind for any state, uses a simulated “satellite account” to compare the total impact of the travel and tourism sector with other Hawaii industrial sectors and with travel and tourism data worldwide. The study quantifies and measures consumer expenditures, capital investment, government expenditures, foreign and domestic trade, and business expenditures “in the same way as governments measure other industries in their charts of national accounts.”<sup>52</sup> (*See details in the accompanying footnote.*). As such, the study does not directly measure the return on specific items such as budget appropriations for tourism marketing or promotion. The category of “government expenditures” includes much more, i.e., “current operating spending by Hawaii government officials on employee travel, as well as spending by government agencies to provide services to travelers and travel companies (i.e. airport and harbor operations, park services, marketing, etc.)” and include “highway and aviation administration, immigration and customs services, . . . convention center operation, marketing and promotion and many other [categories].”<sup>53</sup> Likewise, capital investment spans both public and private contributions towards building and maintaining travel and tourism infrastructure and equipment including airport terminals, highways, beaches, vacation homes, aircraft, rental car fleets, and hotels/resorts. Similarly, the return being reported on includes travel and tourism-related:

1. Public and private employment;
2. Wages and salaries;
3. Transaction taxes (the sum of federal excise taxes, state general and excise taxes, and transient accommodations taxes);
4. Federal and state corporate taxes;
5. County property taxes; and
6. Federal and state individual income taxes.

In other words, the input and output being examined is at the macro, gross state product level and not at the micro, departmental-budgetary level. The purpose of the WEFA model is not to

---

<sup>51</sup>In 1987, the WEFA Group (Wharton Econometric Forecasting Association) merged with Chase Econometrics (an independent subsidiary of Chase Manhattan Bank) and specializes in economic consulting, forecasting, and analysis.

<sup>52</sup>WEFA Study, pp. 3-4: “WTTC/WEFA Group research is designed to be the methodological equivalent of the future National Satellite Accounting System for Travel & Tourism, which is being developed by the Organization for Economic Cooperation and Development, the United Nations, the World Tourism Organization and other international and national statistical bodies. . . . the research approach is fully in line with generally accepted national accounting methodology. . . . All economic concepts are based on national accounting rules for the establishment of Gross Domestic Product. The methodology also employs state-of-the-art Input/Output models, used by state and national governments to determine the total impact of economic policy.”

<sup>53</sup>WEFA Study, pp. 10, 15.



determine the effect of specific state appropriations for tourism marketing projects. Rather, it is to determine the total impact of the travel and tourism sector on the state economy. As a result, the industry can be compared with other industry sectors in the State and worldwide. Nevertheless, the study confirms the fact that travel and tourism is critical for Hawaii. The WEFA study found that:<sup>54</sup>

1. Domestic and international travel and tourism exports make up a substantial portion of Hawaii's gross state product. Of total state exports, services, and merchandise, travel and tourism is expected to account for 61.9% in 1996;
2. Capital investment in Hawaii to support the State's travel and tourism economy is expected to total \$1.5 billion in 1996, or 23.7% of total state investment;
3. Total federal, state and county taxes from travel and tourism in Hawaii in 1996 are expected to total \$1.8 billion, or 25.1%, while it expects to receive \$555 million, or 5.9%, in total federal, state, and county government operating expenditures (*See definition of "government expenditures" above.*);
4. Travel and tourism is expected to produce \$9.2 billion of gross output and 172,000 jobs in 1996 (*Gross output includes \$1.6 billion of personal consumption by state residents; \$1.5 billion of public and private capital investment; \$0.6 billion in government expenditures; \$4.9 billion of foreign and domestic trade surplus earned from international and mainland visitor spending; and \$0.6 billion of business expenditures (business travel) by in-state companies.*);
5. Hawaii is perhaps the largest relative producer of travel and tourism in the country at 24.3% of gross state product, making it the largest industry in the State (*For 1992, travel and tourism topped all other industrial sectors at 25.7% of GSP with real estate coming in a distant second at 13.4%, and retailing third at 12.4%; construction accounted for only 6.0% while the federal military accounted for 7.3%*); and
6. Hawaii travel and tourism is expected to account for 31.5% of all jobs, or 1 in every 3.2 jobs in the State.

**Conversion Study:** Of more relevance to the present study is research commissioned by the HVCB in 1994 and conducted by Longwoods International. Longwoods was requested to evaluate Hawaii's tourism image and competitive position in the market place and to "[assess] the impact of HVCB's 1994 advertising campaign."<sup>55</sup> Results were published in April 1997.

The Longwoods study included a benchmark survey conducted in 1995 which provided data on several relevant items, namely:<sup>56</sup>

- Awareness of [the HVCB's] 1994 advertising [campaign] -- evaluated through recognition of actual ads included with the survey;
- Impact of the 1994 [advertising] campaign on key short-of-sales measures: image, top-of-mind awareness, intentions to visit Hawai'i in 1995 and 1996;

---

<sup>54</sup>WEFA Study, pp. 1-11.

<sup>55</sup>Longwoods International. *Hawai'i Accountability Research: Executive Summary*, April 1997 (hereafter referred to as "Longwoods"), p. 2.

<sup>56</sup>*Ibid.*, pp. 2, 3.

- Conversion research in late 1995 which re-contacted all Benchmark [survey] respondents planning a Hawai'i trip in 1995 to see if they followed through on their travel plans; and
- A second Conversion survey in late 1996 which re-contacted those that were planning a trip during both 1995 and 1996.

The Longwoods study reported that HVCB advertising influenced 411,000 trips in 1995 and 346,000 trips in 1996 for a two-year total of 757,000 trips.<sup>57</sup> These were westbound U.S. mainland arrivals reported by the HVCB. Visitor spending on those trips were reported as \$572 million and \$499 million for those two years. This generated a total of \$75.5 million in taxes (\$41.5 million and \$34 million in 1995 and 1996, respectively).<sup>58</sup> (*Estimates of taxes were based on a formula provided to Longwoods by the HVCB describing the relationship between visitor spending and state and local taxes.*) According to the Longwoods study, the two-year advertising investment amounted to \$7.87 million. The figures beg for a calculation of the ratio of tax revenues generated to visitor advertising. The result appears to be a return of \$9.6 in taxes for every \$1 of advertising.

However, the study also reported that the 411,000 ad-influenced U.S. westbound trips had only a 13% share of all 3.21 million such trips in 1995. That is, 87% of those trips were influenced by factors other than HVCB advertising. The 1996 share dropped to 11% vs. 89%.<sup>59</sup> The 757,000 trips were reported as being influenced by the Hawaii advertising campaign. However, it is not clear to what extent these trips were influenced.

**Return on Investment Formula:** The State of Virginia uses a so-called “return-on-investment” formula to measure the effectiveness of its tourism marketing program. This device was first used to measure the success of the tourism marketing program implemented by Virginia’s Division of Tourism under that state’s Department of Economic Development in 1987. Subsequently, the Department of Economic Development, along with the Division of Tourism, was audited over two years in 1990-1992, by a joint legislative audit and review commission in Virginia. That commission recommended that the return-on-investment device continue to be the accountability tool used by Virginia’s legislature to measure results of the Tourism Division’s marketing efforts. On July 1, 1996, Virginia created a nonprofit Virginia Tourism Corporation (“VTC”) that took over the mission and work of the Division of Tourism. Along with the repeal of the act that created the Division of Tourism, the return-on-investment formula first developed in 1987, and used continuously thereafter, was required to continue to be the primary accountability measurement for the new Corporation to justify continued funding from Virginia’s general fund. The return-on-investment requirement is built in to applications from the private sector for one-third state matching funds for tourism promotion. Applicants for funding must use the formula to show how much each advertising dollar will return on investment.<sup>60</sup>

---

<sup>57</sup>Ibid., p. 9.

<sup>58</sup>Ibid., pp. 10, 11, 24.

<sup>59</sup>Ibid., pp. 21,22.

<sup>60</sup>Unpaginated 3-page pamphlet distributed by the Virginia Tourism Corporation at Tourism Works! Strategies for Sustainable Tourism Development conference held on September 25-27, 1997, in St. Petersburg,

The following table illustrates how the return-on-investment formula worked in Virginia for calendar year 1995.<sup>61</sup>

**TABLE 4-1**  
**RETURN ON INVESTMENT FORMULA**

<i>(All Trips are by Out-of-State Visitors)</i>	
<b>Step 1</b>	Number of person-trips to Virginia = 42.5 million
<b>Step 2</b>	Number of person-pleasure trips = 23.1 million (54.3% of all person trips are for pleasure, thus, 42.5 x .543= 23.1)
<b>Step 3</b>	Number of pleasure trip person-nights = 122.3 million (Average number of nights = 5.3, thus, 23.1 x 5.3 = 122.3)
<b>Step 4</b>	Total pleasure trip person-night spending = \$8.93 billion (Average per-person-night spending = \$73, thus, 122.3 x \$73 = \$8.93)
<b>Step 5</b>	Amount of visitor spending influenced by VTC advertising = \$982.3 million (11% of visitors used advertised information from VTC, thus, \$8.93 x .11 = \$982.3)
<b>Step 6</b>	Amount of visitor spending per VTC advertising dollar = \$223.25 (VTC advertising for 1995 = \$4.4 million, thus, \$982.3 ÷ \$4.4 = \$223.25)
<b>Return on Investment</b>	Amount of tax returned to state only (at 4.5%) = \$10.05 (\$223.25 x 0.045 = \$10.05)
	Amount of tax returned to localities only (at 2.5%) = \$ 5.58 (\$223.25 x 0.025 = \$5.58)
	<b>Total taxes returned per advertising dollar (ROI) = \$15.63 :</b> <b>\$1.00</b>

A VTC official cautions that the return-on-investment formula is not a panacea for measuring program performance or accountability. For example, it does not measure specific advertising campaigns or programs but provides an overall view of the effect of tourism promotion. He further cautions that this tool, like any other tourism promotion measurement tool, is not fool-proof and is subject to criticism.

Florida.

<sup>61</sup>Mark Brown, research director, Virginia Tourism Corporation (804-371-8162), in telephone conversation and fax transmittal on December 10, 1997, using VTC analysis of: (1) USTDC Travel Economic Impact Model results for 1995; (2) NFO, Inc. Virginia Vacation Traveler, 1992; (3) Southeastern Institute of Research, "The Summer Visitor in Virginia, 1990"; and (4) TravelScope, quarterly reports for 1995.

For example, based on an expenditure of \$4.4 million in VTC tourism advertising, a return of \$15.63 in taxes for each \$1.00 of advertising seems a very good return on investment. However, only 11% of out-of-state visitors were influenced by VTC tourism advertising. Thus, it could be said that the great majority of out-of-state pleasure trip visitors (89%) **did not** need to be influenced by VTC advertising but spent \$7.95 billion anyway — as opposed to only \$982.3 million for VTC ad-influenced visitors. This means those not influenced by ads generated \$556.3 million in total taxes as opposed to \$68.8 million for those affected by VTC advertising. The return-on-investment formula indicates that \$223.25 was generated in visitor spending from \$4.4 million in VTC advertising. Carrying out the same calculations, it could be said that the \$4.4 million was used for VTC tourism advertising that resulted in a whopping \$1,806.30 in visitor spending that was **not** influenced by each VTC advertising dollar. Likewise, rather than the \$15.63 in total taxes attributed to each dollar of VTC advertising (the \$15.63 : \$1.00 ROI), \$126.44 in total taxes were generated that were **not** attributable to each VTC advertising dollar.

The return-on-investment formula is not a stand-alone measurement tool. Data need to be input into the formula. Even assuming that the formula-model is appropriate or adequate, the accuracy and quality of the data input into the formula govern the accuracy and quality of the output results. The technical caution is: garbage in, garbage out — although the data may be cloaked in a mantle of respectability, embellished with charts and graphs and adorned with dollar signs, decimal points, and ratios. A return-on-investment formula is not a conversion study. Rather, it is only a method of calculation that requires data from survey and accountability methods such as conversion studies, pre- and post-advertising surveys, and hard, actual numbers of room nights, packages, and tickets sold, etc.

## Chapter 5

### FUNDING OPTIONS, OUTCOMES, AND ACCOUNTABILITY IN S.B. NO. 1843, S.D. 1, S.B. NO. 1933, AND S.B. NO. 1941

#### Introduction

Senate Resolution No. 124, S.D. 1, requests the Bureau to study the alternative funding options and corresponding outcomes regarding tourism marketing and promotion that are proposed in the three measures that were introduced during the Nineteenth Legislature and are referred to in the resolution. The common thread in all three of these measures is the policy that the State should continue to fund tourism marketing and promotion. They differ with regard to the funding mechanisms used. These bills also differ over the private versus public role of a Hawai'i Visitors and Convention Bureau ("HVCB"). They fall along the following spectrum:

Private	←-----	-----→	Public
S.B. 1843, S.D. 1		S.B. 1933	S.B. 1941
Matching funds		Full state funding, 60% state-appointed board, excise taxes	Public entity, assessments

Senate Bill No. 1843, S.D. 1, establishes a ten-year matching funds schedule, which operates as a ten-year proviso attached to future state appropriations. Continued state appropriations will require matching funds by HVCB. Presently, no such matching funds requirements are imposed on HVCB. The bill does not attempt to alter the governing structure of HVCB, create a funding mechanism specifically for HVCB, or create an HVCB-like entity within state government.

Senate Bill No. 1933 attempts to convert HVCB into a quasi-public entity. Based on a contractual relationship between the State and HVCB, the State will fully fund HVCB in exchange for appointing sixty per cent of the HVCB board. A special fund for HVCB will be created from increased tax revenues from certain general excise and use taxes.

Senate Bill No. 1941 creates an HVCB-like entity within state government with an HVCB-like name. It ignores the existence of the HVCB that exists in the private sector. The board of the public agency is appointed by the Governor. The public entity is authorized to raise funding for tourism promotion by imposing assessments upon all business establishments within the tourism industry.

The three bills are discussed in more detail below.

## Senate Bill No. 1843, S.D. 1

**Bill Description.** Senate Bill No. 1843, S.D. 1, imposes a ten-year matching funds schedule upon HVCB that requires incremental increases in HVCB's private funding (as a percentage if not an actual amount) as against HVCB's state funding (see Appendix E). The first year in the ten-year schedule is fiscal year 1997-1998. The last year in the schedule is fiscal year 2006-2007. The amount of state funds against which a match is required in any given year of the ten-year schedule is the amount by which that year's state appropriation exceeds the 1996-1997 state appropriation. For example, in fiscal year 1997-1998, a match is required for the amount by which the fiscal year 1997-1998 state appropriation exceeds the 1996-1997 appropriation. Likewise, in fiscal year 2006-2007, HVCB's private funds must match the amount by which the fiscal year 2006-2007 state appropriation exceeds the 1996-1997 appropriation. In any year of the schedule, no match is required at all if the appropriation for that year does not exceed the 1996-1997 appropriation.

The actual amount of private funds that must be committed to the matching requirements is ten per cent of the excess appropriation in fiscal year 1997-1998 and one hundred per cent of the excess appropriation in fiscal year 2006-2007, with the match increasing in successive increments of ten percentage points each year. The fiscal year 1998-1999 match is twenty per cent of the excess appropriation, while the 1999-2000 match is thirty per cent.<sup>1</sup> Because the percentage requirement is small in the early years of the schedule, and the year used to calculate the excess state appropriation is 1996-1997, the required match amount is expected to be low in the early years. For example, if the fiscal year 1997-1998 state appropriation is only \$1 greater than the 1996-1997 appropriation, then HVCB's private funding would have to be ten per cent of that \$1 difference, or ten cents.

**Preliminary Matters.** The private sources from which the matching funds are required are not specified. Recent HVCB budgets list at least three types of what appears to be private source funds: (1) subscriptions (membership dues); (2) co-op/partner advertising; and (3) in-kind contributions. Based on language in the findings section of the bill, "private sources" was apparently intended to mean only subscriptions (membership dues).

Under the bill, the ratio of state appropriations to private subscriptions would be 9:1 during fiscal year 1997-1998 (with the State appropriating \$9 for every \$1 of private subscriptions) and a 1:1 ratio in year 2006-2007. At present, funding ratios for fiscal years 1995-1996 and 1997-1998, have fallen between 10:1 and 11:1 with state appropriations being between 91% and 92 % of the sum of state appropriations and private contributions. During fiscal year 1997-1998, the ratio was about 10:1 without the emergency appropriation and about 13:1 with it.

---

<sup>1</sup>The Senate Draft 1 bears a strong resemblance to the recommendations contained in testimony offered on the original bill by the Department of Business, Economic Development and Tourism. See, testimony of the Department of Business, Economic Development and Tourism, before the Senate Committee on Economic Development, February 14, 1997, on S.B. No. 1843.

The original bill incrementally reduced state funds to HVCB over a ten-year period from a high of one hundred and ninety per cent to a low of one hundred per cent of the amount of HVCB's corresponding private funds in those years.

The table below compares state appropriations to HVCB subscriptions in recent fiscal years.

**TABLE 5-1  
STATE APPROPRIATIONS AND PRIVATE SUBSCRIPTIONS  
TO HVCB: FISCAL PERIOD 1996-98**

	FY 1997/98	FY 1996/97*	FY 1996/97	FY 1995/96
State appropriations	25,650,000	34,550,000	25,000,000	23,000,000
Private subscriptions	2,478,190	2,564,000	2,564,000	2,174,742
Sum	28,128,190	37,114,000	27,564,000	25,174,742
Appropriations/Sum	0.9119	0.9309	0.9070	0.9136
Appropriations:subscriptions	10.35 : 1.00	13.48 : 1.00	9.75: 1.00	10.58 : 1.00

\*Includes emergency appropriation.

As a further preliminary matter, the fiscal year 1996-1997 appropriation is the base year figure. However, the base year amount changed during the course of the 1997 session. When Senate Draft 1 of S.B. No. 1843 was reported out of the Senate Economic Development (ECD) Committee, the fiscal year 1996-1997 appropriation figure was \$25,000,000, as noted in a proviso to the 1995 budget act.<sup>2</sup> One month later, the emergency appropriation of \$10,000,000 was approved for fiscal year 1996-1997, raising the total appropriation figure for fiscal year 1996-1997 to \$35,000,000.<sup>3</sup> For the discussion below, the base year figure is assumed to be \$25,000,000, since this is the only figure that was available to the ECD committee members at the time that the draft was reported out of the committee.

**Bill Analysis.** The intent behind the matching funds schedule of the bill is to achieve a lower funding ratio between the State and HVCB. It is assumed that the State will appropriate over \$25,000,000, otherwise the schedule will be rendered inapplicable. The present funding ratio between the State and HVCB is just over 10:1. The test of whether the bill can fulfill its intent is whether the schedule in its tenth year will have allowed the State to achieve a funding ratio that is below 10:1. The answer depends entirely upon the amount that the State appropriates in the tenth year. The schedule itself will not necessarily guarantee a lower funding ratio in year ten. In general, low funding ratios, such as 2:1, will require state appropriations much greater than \$25,000,000. High funding ratios, such as 15:1, will require appropriations fairly close to \$25,000,000.

Stated otherwise, obtaining lower funding ratios works at cross purposes with limiting the growth of state appropriations. It is impossible to simultaneously lower the funding ratio and

---

<sup>2</sup>Act 218, Session Laws of Hawaii 1995, part III, section 9.

<sup>3</sup>Act 3, Session Laws of Hawaii 1997.

contain the size of the appropriation, or to raise the funding ratio and greatly increase the appropriation. If the intent of the bill were to do both, lowering the funding ratio and restricting the growth of appropriations, the bill could not be implemented.

To elaborate further, in the tenth year of the schedule, fiscal year 2006-2007, HVCB is required to match one hundred per cent of the amount by which the State's appropriation for that year exceeds the 1996-1997 appropriation of \$25,000,000. It is assumed that the State will appropriate at least \$25,000,000 and that HVCB will make its required match. The table below summarizes the state appropriations and HVCB subscription amounts required for State-to-HVCB funding ratios ranging from a low of 2:1 to a high of over 15:1, where:

- (1) Column A contains the funding ratios. The highest ratio is undefined, since the State provides all funding and HVCB provides no funding. The lowest ratio is 1:1, in which the State and HVCB each provides the same amount of funds;
- (2) Column B contains the funding ratios restated as fractions of the state appropriation over the sum of the state appropriation and the HVCB match;
- (3) Column C contains the amounts of the corresponding state appropriations. The lowest appropriation is \$25,000,000, which corresponds to the undefined funding ratio, and is equal to the fiscal year 1996-1997 appropriation. The highest is \$50,000,000 and corresponds to the ratio of 2:1;
- (4) Column D contains the approximate annual growth rate in state appropriations based on the ten-year period between fiscal years 1996-1997 and 2006-2007, and the base year in 1996-1997 of \$25,000,000. The lowest growth rate is 0%, which corresponds to the undefined ratio. The highest identifiable growth rate is 7%, corresponding to a 2:1 funding ratio and a state appropriation of \$50,000,00;
- (5) Column E contains the amounts of the required HVCB match in subscriptions. The lowest is \$0, which corresponds to the undefined ratio. The highest is \$25,000,000, which corresponds with the ratio of 2:1; and
- (6) Column F contains the approximate annual growth rate in HVCB private subscription amounts based on the ten-year period between fiscal years 1996-1997 and 2006-2007, and the fiscal year 1996-1997 private subscription amount of \$2,564,000. The lowest rate is a negative one hundred per cent, and corresponds with the undefined funding ratio. The highest identifiable rate is 26%, and corresponds with the ratio of 2:1.

The state appropriation and growth rate figures are developed from the fiscal year 1996-1997 appropriation of \$25,000,000. The HVCB subscription and growth rate figures are likewise developed from the fiscal year 1996-1997 private subscription amount of \$2,564,000.



**TABLE 5-2  
FISCAL YEAR 2006-07 FUNDING RATIOS  
BETWEEN THE STATE AND HVCB**

A	B	C	D	E	F
State : HVCB	State/Sum	State App	State %	HVCB Sub	HVCB %
undefined	1	25,000,000	0%	0	- 100%
⋮	⋮	⋮	⋮	⋮	⋮
15:1	15/16	26,785,714	<1%	1,785,714	- 3%
14:1	14/15	26,923,077	1%	1,923,077	- 3%
13:1	13/14	27,083,333	1%	2,083,333	- 2%
12:1	12/13	27,272,727	1%	2,272,727	- 1%
11:1	11/12	27,500,000	1%	2,500,000	0%
10:1	10/11	27,777,778	1%	2,777,778	1%
9:1	9/10	28,125,000	1%	3,125,000	2%
8:1	8/9	28,571,429	1%	3,571,429	3%
7:1	7/8	29,166,667	1%	4,166,667	5%
6:1	6/7	30,000,000	2%	5,000,000	7%
5:1	5/6	31,250,000	2%	6,250,000	9%
4:1	4/5	33,333,333	3%	8,333,333	12%
3:1	3/4	37,500,000	4%	12,500,000	17%
2:1	2/3	50,000,000	7%	25,000,000	26%

The table above shows the specific combinations of state appropriations and matching HVCB subscription amounts necessary to achieve the varying funding ratios from 2:1 to 15:1. Each combination of State and HVCB funds at the varying ratios meets the terms of matching funds schedule for the tenth year, namely, that the amount of HVCB funds equals the amount by which the state appropriation for the tenth year exceeds \$25,000,000. To reiterate, the matching funds schedule does not guarantee that the ratio in year ten will be lower than the present ratio of 10:1. The schedule can be used to produce a funding ratio that is equal to, larger than, or smaller than, the present ratio. The less that the State appropriates, the higher the funding ratio. The more that the State appropriates, the lower the funding ratio. Examples follow of funding ratios in fiscal year 2006-2007 that are the same as, higher than, and lower than present funding ratios.

First, from the table it can be seen that the funding ratio in fiscal year 2006-2007 will change from its present level of 10:1 if the State were to appropriate \$27,777,778. The required match by HVCB will be \$2,777,778 (\$27,777,778 - \$25,000,000). The proportion of state funds over the sum of state funds and HVCB private subscriptions will be 10/11. If the appropriation in fiscal year 1996-1997 is \$25,000,000, then the appropriation in fiscal year 2006-2007 of \$27,777,778 will require an

annual ten-year growth rate in appropriations of about 1% (more precisely, 1.0592 %). Likewise, if the HVCB subscription amount in fiscal year 1996-1997 is \$2,564,000, then the required HVCB match in fiscal year 2006-2007 of \$2,777,778 will require an annual growth rate in subscription amounts of about 1%.

Second, the funding ratio will rise above its present level of 10:1 if the State were to appropriate less than \$27,777,778 but more than \$25,000,000. For example, the ratio will climb to 15:1 if the State were to appropriate \$26,785,714. The required match by HVCB will be \$1,785,714 (\$26,785,714 – \$25,000,000). The proportion of state funds over the sum of state funds and HVCB private subscriptions will be 15/16. If the appropriation in fiscal year 1996-1997 is \$25,000,000, then the appropriation in fiscal year 2006-2007 of \$26,785,714 will require an annual ten-year growth rate in appropriations of less than three-quarters of 1% (more precisely, 0.6923%). Likewise, if the HVCB subscription amount in fiscal year 1996-1997 is \$2,564,000, then the required HVCB match in fiscal year 2006-2007 of \$1,785,714 will require an annual growth rate in subscription amounts of about -3%. In other words, HVCB's required match in fiscal year 2006-2007 will be less than its fiscal year 1996-1997 subscription amount.

If the State were to appropriate exactly \$25,000,000 in fiscal year 2006-2007, the growth rate in appropriations will be 0% because the fiscal year 1996-1997 appropriation is also equal to \$25,000,000. Moreover, since the difference between the two appropriation amounts is \$0, the required match by HVCB is \$0.

In general, HVCB's required match in fiscal year 2006-2007 will be less than its fiscal year 1996-1997 subscription amounts, or non-existent, at funding ratios of 11:1 and higher. At these ratios, the HVCB growth rate in subscription amounts will generally be negative, and state appropriations will range from \$27,500,000 to \$25,000,000.

Third, the funding ratio will drop below its present level of 10:1 if the State appropriates more than \$27,777,778. For example, the ratio will drop to 2:1 if the State appropriates \$50,000,000. The required match by HVCB will be \$25,000,000 (\$50,000,000 – \$25,000,000). The proportion of state funds over the sum of state funds and HVCB private subscriptions will be 2/3. If the appropriation in fiscal year 1996-1997 is \$25,000,000, then the appropriation in fiscal year 2006-2007 of \$50,000,000 will require an annual ten-year growth rate in appropriations of about 7%. Likewise, if the HVCB subscription amount in fiscal year 1996-1997 is \$2,564,000, then the required HVCB match in fiscal year 2006-2007 of \$25,000,000 will require an annual growth rate in subscription amounts of about 26%.

**Summary.** The matching funds schedule created in this bill will not necessarily result in increased funding parity between the State and HVCB by the tenth year of the schedule. Depending upon the amount of state appropriations in that year, the funding ratio between the State and HVCB could be higher, lower, or remain the same as the present ratio of 10:1. The ratio will remain the same if the State were to appropriate \$27,777,778. The ratio will actually end up higher than 10:1 if the State were to appropriate between \$27,777,778 and \$25,000,000. The ratio will drop below 10:1 if the State were to appropriate more than \$27,777,778. A 2:1 ratio would require the State to appropriate \$50,000,000.

Under the matching funds schedule, it is impossible to simultaneously lower the funding ratio and contain the size of the State's appropriation. Dropping the funding ratio well below 10:1 requires raising the appropriation well above \$25,000,000. Containing the appropriation near \$25,000,000 raises the funding ratio well above 10:1.

Lastly, the schedule will have no impact at all on HVCB if the State were to appropriate between \$25,000,000 and \$27,500,000. The required amounts of private funds that HVCB would need to raise in order to match this range of appropriations will range from \$0 to \$2,500,000, and will be less than the level of HVCB's present subscription amounts of \$2,564,000.

### **Senate Bill No. 1933**

**Bill Description.** Senate Bill No. 1933 specifies that if the tourism promotion and marketing contract entered into between the State and the Hawaii Visitors and Convention Bureau provides that the State will fully fund the operations of HVCB, then state officials will become entitled to appoint sixty per cent of the HVCB board (see Appendix F). Since the State will have a majority representation on the board, the State's interests will be treated as the major interest of HVCB, and not just a special interest. Specifically, the bill amends chapter 203, Hawaii Revised Statutes, to add a new section which would specify that:

If the agreement provides that the State will fully fund the operations of the Hawaii Visitors and Convention Bureau, then the members of the Bureau's board shall be appointed under a system in which the governor, the president of the senate, and the speaker of the house of representatives are authorized to collectively appoint sixty per cent of the board.

The bill also raises the general excise tax, use tax, and public service company tax for sources taxed at the four per cent rate by an unspecified fraction of one per cent. The transient accommodations tax is not affected. The bill specifies that if the contract provides for the exchange of full funding for board representation, then the difference in tax revenues generated by the tax rate increase will be deposited into a special fund created in the bill to pay for the operations of HVCB, with disbursements made by DBEDT. The additional tax revenues, earmarked for the special fund, equals the tax base multiplied by the incremental difference between the new, higher tax rate over the old four per cent tax rate.

The taxes raised in this bill are raised regardless of whether the contract between the State and HVCB provides for an exchange of board representation for full funding. If the contract provides for such an exchange, the additional tax revenues will become the source of funding for the HVCB special fund. If the contract does not provide for such an exchange, then the additional tax revenues will be an additional source of funding for the State's general funds. Whether these tax revenues are deposited into the special fund or the general funds therefore depends on whether the Department of Business, Economic Development, and Tourism can negotiate such an exchange in its contract with HVCB.

**Bill Analysis.** Issues, and a corresponding summary statement, regarding funding options and outcomes center around the following:

- (1) Full funding: literally means all state funds, no private funds.
- (2) Sixty per cent board composition: will allow the State to elect both the president and the chair-elect, but would not enable the state members alone to amend the bylaws, or act as corporate members to amend the charter.
- (3) Dedicated funding source: if the tax increases had been in place in 1996, the funding would have generated anywhere from \$33,703,000 to \$303,330,000 for tourism promotion.

These issues are addressed in turn.

**(1) Full Funding**

The problem addressed in this legislation is HVCB’s necessity of having to supplement its deficient private sector funds with state appropriations. The private sector funds consist of subscriptions, co-op advertising, and in-kind contributions.<sup>4</sup> The legislation is intended to relieve HVCB of the hardships of soliciting private funds by authorizing the State to satisfy all of HVCB’s funding needs. However, the legislation may be going too far if ensuring full state funding means refusing all private funding.

The presence of a full funding provision in the HVCB contract is the condition that grants the State the right to appoint sixty per cent of the HVCB board. Two different propositions seem inherent in the legislation: (1) if the State fulfills its obligation to fully fund HVCB, then the State is entitled to appoint sixty per cent of the HVCB board; but more importantly, (2) if the State does not fulfill its obligation to fully fund HVCB, then the State is not entitled to appoint sixty per of the

---

<sup>4</sup>The table below shows HVCB’s sources of income for the fiscal period 1996-98:

**HVCB REVENUES: FISCAL PERIOD 1996-98**

HVCB Budget	FY 97/98	FY 96/97	FY 95/96
Revenues:			
Subscriptions (membership dues)	2,478,190	2,564,000	2,174,742
Co-op/Partner Advertising	4,000,000	3,675,000	6,571,000
State Appropriation	25,650,000	34,550,000	23,000,000
Interest Income	80,000	75,000	100,000
Miscellaneous Income	100,000	20,000	20,000
In-Kind Contributions	6,693,000	4,565,000	4,565,000
Total Revenue	39,001,190	45,449,000	36,430,742

Source: Hawaii Visitors and Convention Bureau, FY 1997/98 Budget, Statement of Operations, Attachment A (DBEDT/HVCB Contract).

HVCB board. Regarding the second proposition, taken literally, the State cannot fulfill its obligation to fully fund HVCB, if HVCB continues to receive membership subscriptions, co-op advertising, or in-kind contributions. Thus, if HVCB continues to receive those private funds, then the State cannot appoint directors to the HVCB board. In order for the State to have a fair chance at fulfilling the terms of its contract, HVCB must refuse to accept any and all private funding. Otherwise, HVCB will be interfering with the State's efforts at fulfilling its contract condition.

A possible implication of the full funding provision is that membership in HVCB must be made free to all persons if the State is to have a fair opportunity at fully funding HVCB. If membership is made free to all, then the present distinction between voting and nonvoting members will be lost, as will the distinction between members and non-members. Currently, the payment of annual dues according to a schedule or formula established by the board of directors distinguishes voting members from non-voting, or associate, members.<sup>5</sup> The payment of an annual minimum contribution determined by the board distinguishes non-voting, or associate, members from non-members.<sup>6</sup>

One possible solution to the foregoing problem may be to replace the term "full funding" with a quantitative term like a specified percentage or amount that represents the minimum amount of required state funding. The percentage should be set higher than actual recent percentages in order that the State may assume a greater burden in funding HVCB, in accord with the general intent of the legislation. But the percentage should also be set low enough to encourage and accommodate as much in private contributions as possible.

## **(2) Board Composition**

In this measure, if the State fully funds HVCB, then sixty per cent of the HVCB board are appointed severally by the Governor, the President of the Senate, and the Speaker of the House of Representatives. The majority of the board is thus directly accountable to state officials. The State's interests become the majority interests of the HVCB, and do not remain as a mere special interest.

The fact that there are three separate appointing authorities--the Governor, the President of the Senate, and the Speaker of the House of Representatives--raises the possibility that the three groups of state appointees will act as three separate factions on the HVCB board. For example, if the three state factions each made up twenty per cent of the board, and it was the private sector board members that acted in unison, then the private sector members, comprising forty per cent of the board, will need one of the three competing state factions in order to form a majority. Thus, having only one governmental appointing authority makes better sense from the standpoint of promoting the interests of state government.

Assuming that the state-appointed directors always act in concert, the question arises as to what the State purchases with a sixty-per cent representation on the board. A sixty per cent board

---

<sup>5</sup>Amended bylaws, HVCB, article IV, section 2(a).

<sup>6</sup>Amended bylaws, HVCB, article IV, section 2(b).

representation allows the State to accomplish some, perhaps most, but not all possible actions, authorized in the HVCB charter and bylaws. The following is a detailed list of the actions that a sixty per cent representation will or will not allow the state-appointed directors to accomplish. In other words, the following is a list of exactly what a sixty per cent board representation would give the State in return for full funding:

*Actions within the control of the state-appointed directors:*

- (1) The state-appointed directors could themselves form a quorum of directors for the transaction of business, as only a majority of the directors is needed to form a quorum.<sup>7</sup>
- (2) The state-appointed directors possess enough voting power to exercise the majority vote on board matters. Approval by a majority of a quorum is needed for the board to act on all matters except as otherwise provided in the bylaws.<sup>8</sup>
- (3) Specifically, the state-appointed directors possess enough voting power to accomplish the following board actions:
  - (a) Elect<sup>9</sup> and remove<sup>10</sup> the president and other corporate officers of the HVCB;
  - (b) Elect the chair-elect of the board of directors, who then becomes the next chair of the board of directors;<sup>11</sup>

---

<sup>7</sup>Since the state-appointed directors comprise sixty per cent of the board, they can form a quorum by themselves if they are all present and none of the private sector directors are present. In contrast, since the private sector directors comprise only forty per cent of the board, the private sector directors cannot form a quorum by themselves if they are all present and none of the state-appointed directors are present. Amended charter of incorporation, HVCB, article VI, section 2, February 10, 1987.

<sup>8</sup>A majority of a quorum means a majority of a majority of directors, in other words, 26 per cent of all the directors ( $.51 \times .51$ ). If all the state-appointed directors are present at a directors' meeting, then a quorum of all the directors will be formed. If the state-appointed directors vote in unison, their vote will constitute more than a majority of the quorum. Amended charter of incorporation, HVCB, article VI, section 2, February 10, 1987.

<sup>9</sup>Hawaii Revised Statutes, section 415B-68, which states that "all officers shall be elected or appointed annually by the board of directors." The statutes govern in the absence of provisions in the charter and the bylaws. The charter states that the officers of the corporation will be elected or appointed as prescribed in the bylaws; amended charter, Art. VI, section 4, September 12, 1968. The bylaws do not discuss the appointment or election of the corporate officers.

<sup>10</sup>Amended bylaws, HVCB, article XVI, section 6, August 22, 1995.

<sup>11</sup>Amended bylaws, HVCB, article IX, section 3, August 22, 1995.

- (c) Elect governmental agencies to honorary membership in the corporation and establish their voting rights, if any;<sup>12</sup> and
- (d) Establish classes of membership in the corporation in addition to those established in the bylaws.<sup>13</sup>

*Actions outside the control of the state-appointed directors:*

- (1) The state-appointed directors by themselves do not possess enough voting power to remove any of the other directors. A vote of two-thirds (66.66 per cent) of all the remaining directors is generally needed to remove a director,<sup>14</sup> a vote of three-fourth (seventy-five per cent) of all the directors is needed to remove the chair of the board of directors.<sup>15</sup>

---

<sup>12</sup>Amended bylaws, HVCB, article IV, section 2, August 22, 1995.

<sup>13</sup>Section 415B-31, Hawaii Revised Statutes; amended bylaws, HVCB, article IV, section 2(d), August 22, 1995.

<sup>14</sup>A sixty per cent representation on the board does not give the state-appointed directors enough votes to remove a private sector director. Assuming that the total number of board members ranges from twenty-five to thirty-five, the state-appointed directors will need supportive votes from one to two private sector directors in order to effect another's ouster.

If there are 25 board of directors altogether, the state-appointed directors make up 15 directors (.6 × 25). Removing one of the private sector directors requires a vote of 16 directors [ $2/3 \times (25 - 1)$ ]. In order to make up the required voting bloc of 16 directors, the 15 state-appointed directors will need a supportive vote from 1 private sector director.

Likewise, if there are instead 35 board of directors altogether, the state-appointed directors make up 21 directors (.6 × 35). Removing one of the private sector directors requires a vote of 23 directors [ $2/3 \times (35-1)$ ]. In order to make up the required voting bloc of 23 directors, the 21 state-appointed directors will need supportive votes from 2 private sector directors.

<sup>15</sup>Amended bylaws, HVCB, article VII, section 7, August 22, 1995.

Although a sixty per cent representation on the board gives the state-appointed directors enough voting power to elect the chair, it does not give them enough voting power to remove the chair. Assuming that the total number of board members ranges from twenty-five to thirty-five and that the chair is not one of the state-appointed directors, the state-appointed directors will need supportive votes from four to six private sector directors to oust the chair.

If there are 25 board of directors altogether, the state-appointed directors make up 15 directors (.6 × 25). Removing the chair requires a vote of 19 directors ( $3/4 \times 25$ ). In order to make up the required voting bloc of 19 directors, the 15 state-appointed directors will need supportive votes from 4 private sector directors.

Likewise, if there are 35 board of directors altogether, the state-appointed directors make up 21 directors (.6 × 35). Removing the chair requires a vote of 27 directors ( $3/4 \times 35$ ). In order to make up the required voting bloc of 27 directors, the 21 state-appointed directors will need supportive votes from 6 private sector directors.

- (2) The state-appointed directors by themselves do not possess enough voting power to amend the bylaws. A two-thirds approval (66.66 per cent) of the entire board is needed to amend the bylaws.<sup>16</sup>

Finally, it is unclear whether the state-appointed directors would also be members of the corporation, whether they would be voting members, and whether each director would hold multiple memberships. Under the present bylaws, they would be able to elect governmental agencies to honorary membership in the corporation, and establish their voting rights.<sup>17</sup> Significantly, the following actions can be taken only by the voting members of the corporation:

- (1) Amendments to the charter of incorporation requires approval by a two-thirds vote (66.66 per cent) of a quorum of the voting members.<sup>18</sup> A quorum is formed by the presence of at least one-third of the voting members.<sup>19</sup> Some matters that can be resolved only through amendments to the charter are:
  - (a) Establishing the voting rights of members;<sup>20</sup> and

---

<sup>16</sup>Amended charter of incorporation, HVCB, article VIII, February 10, 1987.

Thus, the state-appointed directors, constituting only sixty per cent of the entire board, cannot by themselves amend bylaw provisions relating to the following matters, whose resolution is delegated to the bylaws by the charter of incorporation:

- (i) Authorizing the number (amended bylaw, HVCB, article VII, section 1, August 22, 1995; amended charter of incorporation, article VI, section 2, February 10, 1987), composition (amended bylaw, HVCB, article VII, section 3, August 22, 1995; amended charter of incorporation, article VI, section 2, February 10, 1987), and election or appointment (amended bylaw, HVCB, article VII, section 7, August 22, 1995; amended charter of incorporation, article V, section 2, February 10, 1987) of the board of directors;
- (ii) Providing for the composition, election or appointment, and maximum number of board members to the executive committee (amended bylaws, HVCB, article XI, section 1, August 22, 1995; amended charter of incorporation, HVCB, article VI, section 3, February 10, 1998),
- (iii) Establishing classes of membership and voting rights in the corporation, subject to modification outside the bylaws by the board of directors (amended bylaws, HVCB, article IV, section 2, August 22, 1995; amended charter of incorporation, article VII, section 2(1), April 12, 1984.

<sup>17</sup>Amended bylaws, HVCB, article IV, section 2, August 22, 1995.

<sup>18</sup>Amended charter of incorporation, HVCB, article VII, section 2(5), February 10, 1987.

<sup>19</sup>The bylaws and the charter are inconsistent with regard to the definition of a quorum. The bylaws specify one-third of the voting members. The charter specifies “members present”. Section 415B-44, Hawaii Revised Statutes, states that the bylaws shall specify quorum requirements. Amended bylaws, HVCB, article VI, section 4, August 22, 1995; amended charter of incorporation, HVCB, article VII, section 2(5), February 10, 1987.

<sup>20</sup>Section 415B-3, Hawaii Revised Statutes.



- (b) Changing the name of the corporation.<sup>21</sup>
- (2) The adoption of other matters requires approval by a majority of a quorum of the voting members.<sup>22</sup> A quorum is formed by the presence of at least one-third of the voting members.<sup>23</sup>
- (3) *Dedicated funding source*

A dedicated funding source can be expected to de-politicize the funding process for HVCB and also give the HVCB an incentive to increase its revenues by in turn stimulating increased commercial activity among businesses affected by the tax increase. The funding figures contemplated under this measure can be roughly estimated based upon prior years' data on excise tax and use tax revenues for all sources taxed at the four per cent rate, assuming that the increases in tax rates have no effect on the tax base itself.

The tax bases in calendar years 1994, 1995, and 1996 for all sources taxed at the four per cent rate through the general excise and use taxes were \$31,067,603,000 in 1994, \$31,614,089,000 in 1995, and \$33,703,303,000 in 1996. Actual tax collections were \$1,242,704,000, \$1,264,564,000, and \$1,348,132,000, respectively.<sup>24</sup> If the tax increases contemplated in this bill had already been in effect in previous years, the following are the funding figures that would have been earmarked for HVCB:

A tax rate of four and one-tenths per cent in those years would have increased revenues collected by about \$31,068,000 in 1994, \$31,614,000 in 1995, and \$33,703,000 in 1996. These amounts would have comprised HVCB's full funding had the contract provided for an exchange of full funding for board representation; if the contract had not, the funds would still have been raised. A tax rate of four and nine-tenths per cent in those years would have increased revenues collected by about \$279,608,000 in 1994, \$284,527,000 in 1995, and \$303,330,000 in 1996. These amounts would have far exceeded HVCB's full funding.

**Summary.** Senate Bill No. 1933 authorizes DBEDT to contract with HVCB such that if the State fully funds the operations of HVCB, then the State will become entitled to appoint sixty per cent of the HVCB board of directors. The general excise tax, use tax, and public service company

---

<sup>21</sup>Section 415B-38, Hawaii Revised Statutes.

<sup>22</sup>Amended charter of incorporation, HVCB, article VII, section 2(5), February 10, 1987.

<sup>23</sup>The bylaws and the charter are inconsistent with regard to the definition of a quorum. The bylaws specify one-third of the voting members. The charter specifies "members present". Section 415B-44, Hawaii Revised Statutes, states that the bylaws shall specify quorum requirements. Amended bylaws, HVCB, article VI, section 4, August 22, 1995; amended charter of incorporation, HVCB, article VII, section 2(5), February 10, 1987.

<sup>24</sup>State of Hawaii Data Book 1995, Department of Business, Economic Development and Tourism, p. 267, table 9.18; State of Hawaii Data Book 1996, Department of Business, Economic Development and Tourism, p. 276, table 9.18.

tax for sources taxed at the four per cent rate are raised in order to provide the source of HVCB's full funding, regardless of whether the contract is entered into or not.

Under the contract, the State must fully fund HVCB before the State becomes entitled to appoint sixty per cent of the HVCB board. Technically, the condition of full state funding cannot be fulfilled if HVCB continues to receive private funds. Private funds would need to be terminated and prohibited in order to allow the State a chance to perform its contract duties. Terminating private funds may end up blurring HVCB's distinctions between voting members and non-voting members, as well as that between non-voting members and non-members.

Assuming that the full funding condition is met, the State would become entitled to appoint sixty per cent of the directors on the HVCB board. A sixty per cent representation on the board would allow the state-appointed directors to elect and remove the corporate officers, elect the chair-elect of the board of directors, elect governmental agencies to honorary membership in the corporation and establish their voting rights, and establish other classes of membership in addition to those established in the bylaws.

However, a sixty per cent representation on the board would not allow the state-appointed directors by themselves to accomplish matters that require a higher percentage of board approval, such as amending the bylaws (i.e., to change the number and composition of the board of directors), removing hostile fellow directors, or removing the chair of the board of directors. To amend the bylaws or to remove fellow directors generally requires a 66.66 per cent approval. To remove the chair of the board of directors requires a seventy-five per cent approval.

Also, while a sixty per cent board representation might allow the state-appointed directors to control many actions at the board level, it would not necessarily allow them to control HVCB at the corporate membership level. Their status as corporate members is not clear. To dominate at the membership level, the state-appointed directors would need membership representation, and they would need multiple voting membership rights.

Regardless of whether the contract is entered into, certain taxes will be raised in order to provide a source for the full funding of HVCB. Ball park estimates of the funds generated through an increase in the excise tax, use tax, and public service company tax for sources presently taxed at the four per cent rate might have ranged in 1996 from \$33,703,000 (if the tax rates were increased to 4.1 per cent) to \$303,330,000 (if raised to 4.9 per cent), had the bill been in effect in that year. The lower of the two figures is fairly close to HVCB's actual fiscal year 1996-1997 budget.

## **Senate Bill No. 1941**

**Bill Description.** Senate Bill No. 1941 establishes the "Hawaii Visitors and Convention Bureau" as a public body corporate and politic and an instrumentality and agency of the State (see Appendix G). The Bureau is to be placed administratively within the Department of Budget and Finance and headed by a board of directors appointed by the Governor. Ten of the fifteen board members shall represent various sectors of the tourism industry. No one from the Department of

Business, Economic Development and Tourism may serve on that board. Since the board members are all appointed by the Governor, the Bureau is directly accountable to the Governor. The Governor's vision for tourism thus becomes the Bureau's vision for tourism. In other words, the State's interest become more than the major interest served by the Bureau, it becomes the only interest served.

The board is required to impose an assessment fee upon businesses in the visitor industry. Collections are deposited into a special fund managed by the board and to be used for visitor industry marketing and promotion. An industry-wide assessment level is used to determine the assessment formula. The initial assessment level is set at \$25,000,000. The assessments represent the private sector's contribution to tourism funding. The State also maintains a specified minimum level of appropriations to the Bureau each fiscal year. An implicit goal of the legislation is that funds derived from the assessments will allow the State to lessen the amount of future general appropriations for tourism promotion from the levels in recent years. The authority of the Department of Business, Economic Development and Tourism to contract with the private Hawaii Visitors and Convention Bureau for tourism promotion and development is repealed.

Specifically with regard to the assessment system, the tourism industry is divided into industry categories. Each category is divided into industry segments. A list is maintained of businesses to be assessed. An assessment formula is developed for each industry segment. This formula is based on the percentage of funds to be levied against each industry category and segment, and upon whether and to what extent a business derives any sufficient benefit from travel and tourism. The assessments due by each assessed business is calculated, and an assessment bill is mailed to each assessed business. The assessments seem to be annual, since the collection period may be staggered throughout the year.

The evident intent in adopting an assessment system is to ensure that all businesses in the tourism industry assist the State in the funding of tourism promotion to the State. An assessment system appears to be an appropriate remedy to a prevalent "free rider" problem that cannot be corrected by the industry itself. Free riders in the tourism industry are business establishments that do not voluntarily contribute to a private organization set up for the purposes of tourism promotion, but benefit from the organization's promotional efforts.

Thus, the combination of a public tourism entity and an assessment system serves two basic policy needs. The first is that the State's interests should be the primary interests served by the entity responsible for the promotion of tourism. Therefore, the entity that promotes tourism should be a public entity. The second is that the State is in a better position than the private HVCB to eliminate the free rider problem. The State has the power to use an assessment system to ensure that all businesses that benefit from tourism shall assist in the funding of tourism.

Policy is one thing. Execution is another. The analysis below deals with the technicalities and funding outcomes of the bill.

**Bill Analysis.** The two basic, independent issues of this bill, and a short statement regarding the issues, are as follows:

- (1) Establishing HVCB as a public entity: The name "Hawai'i Visitors and Convention

Bureau” has been trademarked. Unless an agreement is reached with the HVCB over the use of the name, another name must be used.

- (2) Using an assessment system to fund tourism: the projections used in this analysis do not rule out the possibility that an assessment system can be used to achieve an implicit goal of the legislation, which is to lessen the State’s appropriations for tourism promotion while at the same time ensuring adequate total levels of expenditures for tourism promotion.

These are discussed in turn.

**(1) *Establishing HVCB as a Public Entity***

The particular name chosen for the public HVCB may result in trademark problems. The following is a brief discussion of the trademark laws applicable as between the State and the private HVCB with regard to the trademarking of the name “Hawaii`i Visitors and Convention Bureau” (with the glottal).

On September 2, 1997, the private HVCB registered its own name, “Hawaii`i Visitors and Convention Bureau”, as a type of trademark known as a “service mark” with the United States Patent and Trademark Office. A “service mark” denotes words and names used by a person to identify and distinguish the services of that person, including a unique service, from the services of others and to indicate the source of the services.<sup>25</sup> HVCB’s service mark was registered in the supplemental register. The registration is valid for ten years,<sup>26</sup> and renewable every ten years thereafter.<sup>27</sup>

The name, “Hawaii Visitors and Convention Bureau” (without the glottal), is noted as a pseudo mark of the registered name, indicating that there is a “likelihood of confusion” between the two names. The pseudo mark, of course, is the name that S.B. 1941 gives to the public entity formed under the bill.

The application for registration in the supplemental register was made about a year earlier on October 25, 1996. That application amended a prior application for registration on the principal register. A trademark registered on the supplemental register does not receive certain advantages available to a registration on the principal register.<sup>28</sup> In particular, the right to the use of a mark registered on the supplemental register does not become incontestable after five years of continuous use,<sup>29</sup> and registration on the supplemental register does not serve as prima facie evidence of the

---

<sup>25</sup>15 USCA §1127 (1997 Cumulative Annual Pocket Part).

<sup>26</sup>15 USCA §§1058(a), 1094 (1997).

<sup>27</sup>15 USCA §§1059(a) (1997), 1094 (1997).

<sup>28</sup>15 USCA §1094 (1997).

<sup>29</sup>15 USCA §§1065, 1094 (1997).

validity of the registered mark, the registration of the mark, the registrant's ownership of the mark, or the registrant's exclusive right to use the registered mark.<sup>30</sup>

Trademarks registrable on the supplemental register are generally those marks that are in lawful use in commerce, are capable of distinguishing an applicant's services, and are not registrable, or not yet registrable, on the principal register.<sup>31</sup> In other words, registration on the supplemental register does not preclude subsequent registration on the principal register.<sup>32</sup> A mark registered on the supplemental register may subsequently become registered on the principal register if the mark has become distinctive of the applicant's services in commerce. Prima facie evidence that the mark has achieved distinctiveness is proof of substantially exclusive and continuous use of the mark in commerce for five years.<sup>33</sup>

The date of first use of the service mark "Hawai'i Visitors and Convention Bureau" is noted on the supplemental register as July 23, 1996, the date that the corporate membership of HVCB voted to change the corporation's name from the former "Hawaii Visitors Bureau"<sup>34</sup> to the current "Hawai'i Visitors and Convention Bureau".<sup>35</sup> Accordingly, the target date for HVCB's future claim that its new name has acquired enough distinctiveness to be entitled to registration on the principal register appears to be July 23, 2001.

States are bound by the federal trademark statutes. States must abide by the federal trademark statutes in the same manner and to the same extent as any nongovernmental entity.<sup>36</sup> States are not entitled to immunity from suit in federal court,<sup>37</sup> and are subject to the same sanctions as that available against nongovernmental entities.<sup>38</sup> Specifically, the State is barred under the trademark statutes from requiring HVCB to alter its registered mark.<sup>39</sup> Moreover, HVCB is entitled to bring a civil suit against the State for the State's use in commerce, without HVCB's consent, of

---

<sup>30</sup>15 USCA §§1094, 1115(a) (1997).

<sup>31</sup>15 USCA §1091(a) (1997).

<sup>32</sup>15 USCA §1095 (1997).

<sup>33</sup>15 USCA §1052(f) (1997).

<sup>34</sup>On October 25, 1996, HVCB also filed an application with the Patent and Trademark Office to have its former name "Hawaii Visitors Bureau" placed on the principal register as a trademark on goods and a service mark for services. The application is still pending. HVCB is claiming that the distinctiveness of the mark is acquired through continuous use and consumer recognition.

<sup>35</sup>Articles of amendment to change corporate name, HVCB, October 8, 1996.

<sup>36</sup>15 USCA §1114(1) (1997).

<sup>37</sup>15 USCA §1122(a) (1997 Cumulative Annual Pocket Part).

<sup>38</sup>15 USCA §1122(b) (1997 Cumulative Annual Pocket Part).

<sup>39</sup>Ibid.

either a “colorable imitation” or a “counterfeit” of the registered trademark “Hawai`i Visitors and Convention Bureau” in “connection with the sale, offering for sale, distribution, or advertising of any ... services on or in connection with which such use is likely to cause confusion, or to cause mistake, or to deceive.”<sup>40</sup>

A “colorable imitation” of a registered service mark means that the offending name “so resembles the registered mark as to be likely to cause confusion or mistake or to deceive.”<sup>41</sup> The more egregious “counterfeit mark” means a “spurious mark which is identical with, or substantially indistinguishable from, a registered mark.”<sup>42</sup> Federal court sanctions for the use of a “colorable imitation” are less severe than those for a “counterfeit mark”. Both involve the granting of injunctions and the awarding of damages.<sup>43</sup>

In short, if the State wants to establish its own tourism and marketing promotion entity, unless some kind of agreement is reached with the HVCB over the use of the name, that public entity should be named something other than “Hawaii Visitors and Convention Bureau”.

## (2) *Using an Assessment System to Fund Tourism*

For the purposes of the analysis of the assessment system in S.B. No. 1941, assume that the system is ready to operate, and that all start-up costs have been incurred. An implicit goal of the assessment system is to lessen the State’s appropriations for tourism promotion while at the same time ensuring adequate total levels of expenditures for tourism promotion. Total expenditures consist of assessment costs and other operating costs. Assuming that assessment costs do not impact other operating costs, total revenues would consist of assessment revenues and general fund appropriations. In other words:

- (1) Total revenues = general fund appropriations + assessment revenues,
- (2) Total expenditures = assessment costs + other operating costs, and
- (3) Total revenues = total expenditures; therefore:
- (4) General fund appropriations = total expenditures – assessment revenues.

A test of the viability of the assessment system is whether general fund appropriations under the assessment system are less than actual prior years’ general fund appropriations under the present

---

<sup>40</sup>15 USCA §1114(1) (a) (1997).

<sup>41</sup>15 USCA §1127 (1997 Cumulative Annual Pocket Part).

<sup>42</sup>Ibid.

<sup>43</sup>Sanctions for a “colorable imitation” are discussed at 15 USCA §§1116(a), 1117(a), 1122 (1997 Cumulative Annual Pocket Part). Sanctions for a “counterfeit mark” are discussed at 15 USCA §§1116(d), 1117(b), (c), (c)(1), and (c)(2) (1997 Cumulative Annual Pocket Part).

custom. If they are, then the assessment system is viable. If they are greater, then the assessment system is not viable.

Since the initial level of assessment revenues under the bill is targeted at \$25,000,000, the key question is whether general fund appropriations exceed total expenditures under the assessment system minus \$25,000,000.

**Estimating total expenditures.** Total expenditures for the public entity under the assessment system can be expected to resemble HVCB’s expense budget, with the item “membership costs” replaced by the item “assessment costs”. Voluntary membership dues is replaced by compulsory assessments. For fiscal year 1997-1998, HVCB’s expense budget is summarized as follows:<sup>44</sup>

**TABLE 5-3  
HVCB EXPENSE BUDGET: FY 1997-98**

HVCB Expense Budget	FY 1997/98
Marketing expenses	36,236,404
Administration & finance	845,039
Corporate	1,608,824
Membership	310,923
Total expenses	39,001,190

As stated earlier, assume that none of the other expense items, “marketing expenses”, “administration and finance”, and “corporate” are affected by a switch over to an assessment system. One estimate of assessment costs is that these costs would make up thirteen per cent of total expenses. This estimate is based on California’s estimates for its own assessment system.

Briefly, the California Tourism Marketing Act<sup>45</sup> was approved in 1997 in a statewide referendum of tourism industry businesses, making California the first state in the nation to use an industry assessment method to partially fund tourism marketing activities. Assessments are expected to begin being billed in March 1998.<sup>46</sup> Included in the assessments are only those businesses that benefit significantly from the travel and tourism marketplace, including accommodations, attractions, restaurants and retail, and transportation and travel services. Excluded are industry segments that do not significantly benefit from travel and tourism, any business that earns less than eight per cent of its gross revenue from travel and tourism, and any business whose assessment is too small to feasibly collect. A business’s assessment fee is \$450 per \$1 million in travel and tourism revenues.

---

<sup>44</sup>Hawai'i Visitors and Convention Bureau, FY 1997/98 Budget, Statement of Operations, Attachment A (DBEDT/HVCB Contract).

<sup>45</sup>The text of the California Tourism Marketing Act can be accessed at the following web site address: <http://gocalif.ca.gov/tma/ctma.html>

<sup>46</sup>“California Tourism Marketing Referendum Approved”, at <http://gocalif.ca.gov/tma/>, at p. 1.

Revenues from travel and tourism means revenues received from persons who travel fifty or more miles from home, other than for commuting to work or school, or persons who stay overnight away from home.<sup>47</sup>

Prior to the referendum approval, a fiscal year 1997-1998 budget was prepared for the commission created in the act and delegated the responsibility of assessing tourism-related businesses.<sup>48</sup> The expense budget totaled \$15,000,000. Of that total, \$13,000,000 was for marketing expenses, a reserve, and general operations. The remaining \$2,000,000 was the estimated cost of implementation and collection. In other words, it was estimated that roughly thirteen per cent of the total budget ( $\$2,000,000/\$15,000,000 \times 100$ ), was needed for assessment costs.

Thus, if the public entity in S.B. No. 1941 had been in operation during fiscal year 1997-1998 and assessment costs had amounted to thirteen per cent of its total operating costs, then the total operating costs under the assessment system might have resembled HVCB's expense budget for fiscal year 1997-1998, shown in the preceding table and reproduced below, with some modifications. The figures for "marketing expenses", "administration and finance", and "corporate" were assumed to have remained the same. The entry for "membership" would have been replaced with an entry for "assessments". Assessment costs would have been thirteen per cent of total operating costs,<sup>49</sup> and would have amounted to \$5,781,304. Total operating costs would have amounted to \$44,471,571. Accordingly, the estimated expense budget of the public HVCB for fiscal year 1997-1998, based on the preceding table on HVCB's expense budget for fiscal year 1997-1998, would have appeared as follows:

**TABLE 5-4**

<sup>47</sup>"California Travel and Tourism Referendum Q & A", at [http://www.caltia.com/CTMA/ref\\_QA.html](http://www.caltia.com/CTMA/ref_QA.html)

<sup>48</sup>The projected fiscal year 1997/98 total expense budget of \$15,000,000 for the California Travel and Tourism Commission, prepared by the California Division of Tourism, is as follows:

Research	\$ 350,000
Collateral/Fulfillment	1,941,000
California Countryside	720,000
Domestic	6,149,000
International	1,700,000
Media Relations	450,000
Reserve	190,000
Operations	1,500,000
CTMA	
Implementation/Collections	<u>2,000,000</u>
TOTAL	\$15,000,000

Conceptual 1997/1998 Marketing Plan, FY 1997/98 Marketing Plan, at <http://gocalif.ca.gov/geninfo/annual/ann17.html>, p. 8.

<sup>49</sup>Assessment costs = x, and total expenditures = 39,001,190 - 310,923 + x.  
 Therefore,  $x = (.13) \cdot (39,001,190 - 310,923 + x)$   
 $x = (.13) \cdot (39,001,190 - 310,923) \div (.87) = 5,781,304.$   
 And,  $39,001,190 - 310,923 + x = 44,471,571.$



**PUBLIC ENTITY'S HYPOTHETICAL  
EXPENSES: FY 1997-98**

Public Entity Expense Budget	FY 1997/98
Marketing expenses	36,236,404
Administration & finance	845,039
Corporate	1,608,824
Assessments	5,781,304
Total expenses	44,471,571

**TABLE 5-5  
HVCB EXPENSE BUDGET: FY 1997-98**

HVCB Expense Budget	FY 1997/98
Marketing expenses	36,236,404
Administration & finance	845,039
Corporate	1,608,824
Membership	310,923
Total expenses	39,001,190

This projection of \$44,471,571 is larger than HVCB's own estimated budget expenditures of \$39,001,190 for fiscal year 1997-1998. The difference is attributable to the costs of assessments, anticipated here to be greater than membership costs. Under the above scenario, assessment expenses account for \$5,781,304, whereas membership expenses accounted for \$310,923.

***Estimating the state general fund appropriation.*** Total expenditures of \$44,471,571 require total revenues of \$44,471,571. As stated earlier, revenues consist of assessments and state general fund appropriations. Assessment revenues are targeted at \$25,000,000. If the assessment target is met, then the minimum state general fund appropriation needs to be \$19,471,571 (\$44,471,571 - \$25,000,000). The estimated \$19,471,571 in state general fund appropriations under the assessment system is less than recent general fund appropriations to HVCB. The general fund appropriations for fiscal years 1997-1998, 1996-1997, and 1995-1996, respectively, were \$25,650,000, \$34,550,000, and \$23,000,000.<sup>50</sup>

Based on the above analysis and assumptions, the assessment system cannot be ruled out as unfeasible.

***Reaching the targeted assessment levels.*** The figure of \$25,000,000 represents the targeted assessment level. Reaching the targeted assessment level, though, depends upon the number

---

<sup>50</sup>Hawai'i Visitors and Convention Bureau, FY 1997/98 Budget, Statement of Operations, Attachment A (DBEDT/HVCB Contract), as of Oct. 8, 1997.

of establishments assessed and the assessment fees. The total assessment level is reached by multiplying the number of establishments assessed by the average assessment fee. The number of establishments assessed is no greater than the number of establishments that fall into the four tourism industry categories established in the bill. Not all businesses that fall into these categories will be subject to an assessment; some may be exempted. Thus, the total number of establishments in these categories represents the maximum number of establishments subject to an assessment. The tourism industry categories are as follows:

- (1) Accommodations;
- (2) Restaurants and retail;
- (3) Attractions and recreation; and
- (4) Transportation and travel services.

These categories correspond roughly to the four State Data Book categories of: (1) hotels and other lodges places, (2) eating and drinking places, (3) retail trade, and (4) transportation and public utilities. There is no category corresponding to attractions and recreation. In 1994, the number of establishments for those four State Data Book industry groups were as follows<sup>51</sup>:

(1)	Hotels and other lodging places	285
(2)	Eating and drinking places	2,633
(3)	Retail trade	7,978
(4)	Transportation and public utilities	<u>1,532</u>
	Total	12,428

Assuming that this State Data Book total of 12,428 establishments in those four categories is a fair estimate of the maximum number of establishments to be assessed under the bill, the initial assessment level of \$25,000,000 can be reached if the average assessment fee for a maximum of 12,428 establishments is \$2,011.59 per establishment ( $\$25,000,000 \div 12,428$  establishments). It is not known whether an assessment fee of \$2,011.59 might be perceived as too high by the assessed establishments, or cause any of them to shut down.

For the sake of perspective, the total number of private business establishments in 1994 across all major industry groups was 29,995.<sup>52</sup> Under a more expansive view that all business establishments should be assessed because all benefit from tourism, a target assessment level of \$25,000,000 can be

---

<sup>51</sup>State of Hawaii Data Book 1996, p. 415, table 15.20.

<sup>52</sup>State of Hawaii Data Book 1996, p. 415, table 15.20.

reached by assessing all businesses an average of \$833.47 per establishment ( $\$25,000,000 \div 29,995$  establishments).

**Summary.** Senate Bill No. 1941 suffers from potential problems due to the new public entity being given the same name as that which specifically belongs to the existing private HVCB and is placed under the protection of the federal trademark laws. Unless an agreement is reached with the HVCB regarding the use of the name, the public entity would have to have a different name to avoid the problem.

As for the assessment system, the analysis above indicates that the assessment system, once it is operational, could allow the State to lower its level of future general fund appropriations for tourism promotion from recent appropriation levels. Recent general fund appropriations have ranged from \$23,000,000 to \$34,550,000. The assessment system could lower them to about \$19,000,000.

The bill will reach approximately 12,000 establishments. In order for the targeted assessment level of \$25,000,000 to be met, the average assessment fee per establishment will need to be about \$2,000.

## Summary

Of the three bills discussed, the first one, S.B. 1843, S.D. 1, involving the matching funds schedule, is the most problem-free. It establishes a ten-year schedule. In each year of the schedule, HVCB must provide a match a percentage of the amount by which the State's appropriation for that year exceeds a base figure. In the first year, the match is ten per cent of the excess. In the tenth year, the match is one hundred per cent of the excess. Each year the required match increases ten percentage points.

Senate Bill No. 1843, S.D. 1, makes no attempt to re-structure the relationship between the State and HVCB. It also has the potential for not accomplishing anything substantial. In the early years of the schedule, the match requirements imposed on HVCB may be minimal or non-existent. The match requirement will be minimal in any year if the difference between the state appropriation for that year and \$25,000,000 is small, and the required percentage match for that year is also small. The required match by HVCB may even end up being less than present levels of HVCB's subscription amounts. No match requirement will apply at all in any year in which the state appropriation is less than \$25,000,000.

At the end of the ten years, there is a possibility that the funding ratio between state funds and HVCB funds in that tenth year will not be lower than the funding ratios at present. In other words, the State-to-HVCB funding ratio in the tenth year may still end up at 10:1 or over. A 10:1 ratio requires a state appropriation of about \$28,000,000 and an HVCB match of \$2,800,000. A 2:1 ratio requires a state appropriation of about \$50,000,000 and an HVCB match of \$25,000,000. In general, the more funds that the State appropriates, the lower the funding ratio will turn out to be.

The second bill, S.B. No. 1933, which attempts to re-structure the relationship between the State and HVCB through a contract, requires the State to coordinate the rights and duties of a

contract that may or may not come into existence with a real and definite tax increase. The general excise tax, use tax, and public service company tax for sources taxed at the four per cent rate will be raised regardless of whether the contract is entered into or not. If the contract is entered into, the additional tax revenues will be deposited in a special fund created to fund tourism. If the contract is not entered into, the additional tax revenues will presumably be deposited into the general fund of the State. Whether the revenues go to the one fund or the other depends upon whether DBEDT can enter into a contract with HVCB that entitles the State to appoint sixty per cent of the HVCB board of directors if the State agrees to fully fund the operations of HVCB.

The concept of full funding may hold a common sense appeal but it may also be difficult to implement in practice. Technically, full funding by the State literally means all state funds, no private sector funds--not even a \$1 private donation. Private donations may end up blocking the State from appointing sixty per cent of the HVCB board.

A sixty per cent representation on the board allows the State to do many things on the board if the state members vote as a block, but not all things, assuming no change in the bylaws. The State could form a quorum of board members and a majority of a quorum of board members. The State could elect the president of HVCB as well as the chair-elect of the board of directors of HVCB. However, the State alone could not remove the private sector directors or the chair of the board of directors. The State could not amend the bylaws. To accomplish these actions requires a board representation of seventy-five per cent.

Also, it is unclear whether representation on the board will give the State any rights at the membership level of the corporation. Without membership rights, the State cannot amend the charter, or even cast a vote to amend the charter.

As for the funding amounts raised through the general excise tax, use tax and public service company tax for sources taxed at the four per cent rate, it appears that the drafters of the bill were contemplating funding amounts for HVCB of between \$33,703,000 and \$303,330,000, had the bill been in effect in 1996. This range of funds would appear to have been sufficient for HVCB, since it would have contained HVCB's entire budget for fiscal year 1995-1996.

The third bill, S.B. No. 1941, which establishes a public tourism promotion entity and authorizes the use of an assessment system to fund tourism promotion, makes the greatest attempt among the three bills at re-structuring the relationship between the State and HVCB. The bill creates a public HVCB-like entity and adopts an assessment system to fund tourism promotion. Two policy needs are served by the measure. The first is that the State's interests should be the primary interests served by an entity that promotes tourism to the State. Therefore, the entity that promotes tourism should be a public entity. The second is that the State is in a better position than the private HVCB to eliminate the free rider problem. The State has the power to use an assessment system to ensure that all businesses that benefit from tourism shall assist in the funding of tourism promotion.

At the technical level the bill suffers from some problems. Unless an agreement is reached over the use of the name, the public entity would have to be named something other than "Hawaii Visitors and Convention Bureau" to avoid federal trademark problems. The name "Hawai'i Visitors and Convention Bureau" (with the glottal) has been trademarked. In fact, HVCB not only has a

registered trademark for “Hawai`i Visitors and Convention Bureau”, it also has an application pending on its former name, “Hawaii Visitors Bureau”.

As for the assessment system, there is a possibility that the system will allow the State to lower its level of future general fund appropriations for tourism promotion from its present levels. Recent general fund appropriations have ranged from \$23,000,000 to \$34,550,000. The analysis of the assessment systems points to the possibility that future general fund appropriations could be lowered to about \$19,000,000, provided that the targeted assessment level of \$25,000,000 is reached. Reaching the targeted assessment level with roughly 12,000 establishments requires an average assessment fee of about \$2,000 per establishment.

## Chapter 6

### ANALYSIS, FINDINGS, AND RECOMMENDATIONS

It is obvious from each of the chapters set out in this report that tourism is an extremely important area to this State. Historically, Hawaii has reaped many benefits through the tourism industry simply from its unique culture and geographic setting. Now, with tourism a more competitive industry and the State in a stagnant economic period, it is important to examine the State's relationship with the tourism industry and determine how that relationship can be fine tuned to ensure effective and efficient use of state funds.

What is also obvious from the previous chapters of this report is that there are no definitive procedures or answers to some of the issues presented. Additionally, while the laws concerning tourism development, the state Office of Tourism, and Tourism Planning have good purposes, there is no comprehensive power or authority that requires them to be strictly implemented. A similar situation exists with the two long-term tourism policy documents, the unfinished Tourism Strategic Plan and the out-of date State Functional Plan for Tourism. As a result, many of the State's roles have been abandoned or relinquished to private interests. These private interests may not have the same specific goals and interests as the State.

#### **Policymaking**

Most importantly, the State's role as policymaker needs to be returned to those whose primary interest is the State. A strong state tourism policymaking board is the backbone of the State's efforts in revitalizing the tourism industry and keeping Hawaii on the cutting edge. Pending legislation proposes to make HVCB a public entity. While Chapter 5 explains certain disadvantages of that specific proposal, the theory of having a public entity to act in much the same way HVCB has been acting is still viable. A state Tourism Authority, governed by a board of high-level state officials and members of the industry, and operated by an executive director has similarities to the intended effect of making HVCB a public entity. Chapter 3 indicates that several states have taken this approach.

The similarities between a state Tourism Authority and HVCB would be that industry officials would have a say in how the State should pursue the marketing goals in promoting Hawaii as a visitor destination, and the authority could also coordinate the marketing plans of the convention center and the counties with the overall state plan. The differences between a state Tourism Authority and the present HVCB is that state officials in conjunction with industry experts would have an opportunity to set policy for the development of tourism. Distinguishing the need for tourism development, not strictly pursuing marketing plans is the critical element that has been ignored for too long, regardless of its literal evidence in the statutes. Establishing tourism development policy would ensure that the pursuit of the marketing goals are in line with the State's policies and further the State's interest in the development of tourism.

Ironically, Chapters 2 and 4 of this report indicate that many of the powers and duties needed for a state Tourism Authority already exist in various state statutes. Consolidating the purposes, functions, powers, and duties into a single law would crystallize the focus and purpose of a state Tourism Authority. An essential element in success of a state Tourism Authority is that it have adequate authority and power. To accomplish this, it is important to make sure that the agency's board members have adequate power and authority. This is why it is essential for the state leaders or their representatives to participate at this level. It is also important for industry experts to provide guidance and perspective to the Authority. It is therefore equally important to include members of the industry on the board of a state Tourism Authority. The functions of a state Tourism Authority would be to act as the policymakers that define, review, evaluate, and update the State's policy for tourism development in order that an executive director could implement the policy. Without the power and authority of uppermost state leadership, any policy development is sure to be disregarded or set aside as the State Functional Plan for Tourism has been the last few years. Setting state policy is the role of the State's leaders. A strong, authoritative policymaking board determines how other state tourism industry roles, for example, as developer, promoter, or regulator, will fall into place and whether or not the policies established will actually be implemented.

## **Funding**

A second way to give power and authority to a state Tourism Authority is to allocate funds to it. Money is a powerful tool. Currently, the HVCB is allocated \$25 million annually. The current process of negotiation with HVCB in determining the marketing plans is an onerous one as Chapter 2 points out. The current process of designating HVCB as the sole marketing and promotion agent lacks the fair and equal treatment requirements of the State's procurement code. The current process of contracting with HVCB for marketing and promotion of Hawaii as a visitor destination does not promote an efficient method of determining how the biennial tourism development budgets will be spent once the Legislature has determined the actual amounts to be allocated. It is clear that the allocation of funding for tourism programs must be streamlined.

Suggestions for funding options for tourism have included using resources from gambling and lotteries, but discussions on the pros and cons of those issues are beyond the scope of this report. Mandatory membership proposals have also been suggested. The State of California is funding its tourism development program with an assessment program that assesses tourist industries an annual fee. The revenues from the annual fees are designated for the development and promotion of tourism. The assessment system in California mimics their system of assessment groups established for the marketing of different agricultural products. An essentially different problem with tourism as opposed to agriculture or membership by lawyers in a bar association is that there is no clear cut way to define the tourism industry. The problem that then exists is determining who falls within the designated categories of the tourism industry. An additional disadvantage of this system is that a new assessment would be an additional cost of doing business.

The use of dedicated state funds has also been proposed in legislation, and the Economic Revitalization Task Force has recommended using a dedicated source of state funds for the funding of tourism promotion. The Bureau agrees that a dedicated source of funding would make it possible to resolve some of the inefficient methods of contracting for marketing and promotion services. A

dedicated source of funding provides a reliable source of funds which can be anticipated and therefore used in planning. A dedicated source of funding would ensure that tourism development plans would be made within the scope of the available funds. A key issue, however, is where this dedicated source of revenue should come from.

Legislative appropriations for funding tourism programs has grown every year. Currently, the figure is approximately \$25 million, not including the \$10 million in emergency funding appropriated in 1997. The Economic Revitalization Task Force recommended an amount closer to \$60 million annually. The \$60 million figure coincides with recent HVCB suggested funding based on the proposed marketing plan submitted to the Legislature during the 1997 Regular Session.

The Economic Revitalization Task Force has proposed earmarking three percentage points of the transient accommodations tax ("TAT") for tourism marketing and promotion. The Task Force goes further by suggesting that the rate of the TAT be increased from six to seven per cent. Added to the four per cent general excise tax (GET) also applicable to accommodations would result in an eleven per cent total tax on the cost of accommodations. Eleven per cent in taxes on accommodations is not extreme. In fact, many accommodations elsewhere in the United States are subject to higher rates up to just over fifteen per cent because local taxes are added to the state taxes.<sup>1</sup> The increase in the TAT rate from six to seven per cent would not necessarily mean increased revenues for tourism promotion because the three percentage points would remain constant. The increased revenues would be available to compensate some of the loss experienced in the distribution of revenues to each of the counties as explained below. Therefore making a recommendation on whether or not the TAT should be increased is not within the scope of this report.

Currently, the law earmarks a portion of the TAT for the convention center capital special fund and distributes funds to the counties as well as retains some administrative fees.<sup>2</sup> In the fiscal year ending June, 1997 TAT collections amounted to approximately \$125 million. One-sixth of those funds are already earmarked for the convention center (about \$21 million). Earmarking one-half (three percentage points at the current rate of six per cent) for funding tourism programs would generate approximately \$62 million. If the law retained the current distribution of the balance of funds, then five per cent of what is left would go to the state general fund for administration of the tax, \$2 million instead of \$5 million and the counties would share about \$40 million instead of \$99 million, according to the proportional amounts specified in the statute.

---

<sup>1</sup>State Legislatures reported the following lodging tax rates in the Oct/Nov 1997 issue:

CITY	STATE RATE	LOCAL RATE	OTHER	TOTAL
New York	4.0%	9.25%	\$2/day	\$13.25% + \$2/day
Miami	6.0%		6.5%	\$12.5%
Los Angeles	None		14.0%	\$14.0%
Washington DC		13.0%	\$1.50/day	\$13.0% + \$1.50/day
Seattle, WA	6.5%	8.7%		\$15.2%
Denver, CO	3.0%	8.8%		11.8%
Chicago, IL	6.2%	8.7%		14.9%
Atlanta, GA	4.0%	10.0%		14.0%

<sup>2</sup>Section 237D-6.5, Hawaii Revised Statutes.



The earmarking of the TAT as suggested by the Economic Revitalization Task Force benefits the tourism industry because as the total TAT revenues increase, so does the amount earmarked to fund tourism. Reliance on the TAT as the dedicated source of funding would mean that a single segment of the tourism industry, hotels and other transient accommodations, would be funding the entire state tourism program. In addition, the Bureau disagrees with the Economic Revitalization Task Force's proposal to the extent that the funds are earmarked specifically for tourism promotion and marketing. This report, both in Chapters 2 and 4, indicated that the State's roles go beyond marketing and promotion and must necessarily be driven by tourism development, a particular area of which includes marketing and promotion.

Directly or indirectly, everyone in this State benefits from tourism, and the State's tourism program should not be funded by only a particular segment of the tourism industry. The Bureau finds this to be a key consideration when examining different sources of funding to be earmarked for a specific purpose. While other states earmark lodging taxes for the exclusive use of tourism promotion, other states, unlike Hawaii, are generally not as dependent on the success of tourism to ensure the success of the State's economy. Other states also do not have a tax comparable to Hawaii's general excise tax. This broad-based tax is unusual in this country. Because it is so broadly based the State can generate fairly large amounts of revenue despite a relatively low rate. Four per cent is a relatively low rate when compared to the sales and restaurant tax rates imposed in other communities. Historically, the Legislature has appropriated on the average less than one and one-half per cent of the total general excise tax revenues to HVCB. Over the last ten years the amount appropriated by the Legislature to HVCB equals an average of one and three-quarters per cent of total annual general excise tax revenues. In the last five years the amount appropriated to HVCB equals approximately two per cent of the total general excise tax annual revenues. The State could feasibly earmark two per cent of the general excise tax revenues and maintain the higher end of the level of funding that has historically been given to tourism programs.

Finally, Chapter 5 of this report discusses the earmarking of an increase in the general excise tax rate. It is feasible to increase the general excise tax by a very small increment and earmark that portion of the increase to fund tourism. This presents the question of whether or not the tax rate should be raised. The need for the increase would turn entirely upon the Legislature's determination of whether in the larger scheme of things revenues are adequate to meet spending needs, or whether additional revenues need to be raised to ensure that funding is available for tourism programs.

## Recommendations

The Bureau makes the following recommendations:

1. A new state policy board, the Hawaii Tourism Authority, should be established. The board should consist of both public and private members that will give the board authority and power. These members should be leaders of government and leaders in the private sector of the tourism industry. The Tourism Marketing Council should be repealed and the State Office of Tourism should be transferred to the Hawaii Tourism Authority to provide staffing and continuity.
2. The responsibility for Hawaii Tourism Authority should encompass a broader focus than simply marketing and promotion. The Hawaii Tourism Authority's responsibility should include the areas of concern articulated by previous tourism planning documents, the Functional Plan and the Strategic Tourism Plan, that include tourism development in the long run and the interaction with residents as well as other areas discussed throughout this report.
3. A dedicated source of funding for the Hawaii Tourism Authority to manage tourism marketing and development would streamline a currently cumbersome annual process. The dedicated source of funding would ensure efficient and effective use of the funds, as well as continuity to programs. A dedicated source of funding will also make it easier to require that tourism funds be once again subject to the procurement code and bring fair competition back to the process.
4. The Bureau believes the source of the dedicated funds should be the general excise tax and not the transient accommodations tax. The general excise tax is paid by all who do business in Hawaii. If the dedicated source of funds were to come from the transient accommodations tax, then only the hotel industry would be paying the tab for tourism marketing and development.
5. If you measure the funds appropriated by the Legislature against the corresponding years' general excise tax revenues, historically from 1960, the amount of funds appropriated by the Legislature for tourism as a percentage of general excise tax revenues has been on the average only one and one-half per cent. In more recent years, the percentage has been closer to two per cent. Because of the general excise tax broad base, only two per cent would need to be earmarked to maintain the current level of funding for tourism. As the general excise tax revenues grow, so do the amounts earmarked for tourism although the percentage remains the same.

Suggested legislation illustrating these recommendations is attached as Appendix H.



Appendix A

THE SENATE

S.R. NO.  
NINETEENTH LEGISLATURE, 1997  
STATE OF HAWAII

124  
S.D. 1

SENATE RESOLUTION

REQUESTING A STUDY OF FUNDING OPTIONS FOR TOURISM MARKETING AND PROMOTION.

1 WHEREAS, the continued success of the visitor industry is  
2 vital to the State's economic recovery; and  
3

4 WHEREAS, in light of its importance, the manner in which  
5 tourism promotion and marketing is currently funded and managed  
6 must be carefully assessed to determine whether it is the most  
7 cost-effective and efficient way to meet the State's necessary  
8 objectives; and  
9

10 WHEREAS, this is especially important in light of  
11 increased competition from tourist destinations around the  
12 globe and the present static forecast for Hawaii's visitor  
13 industry; and  
14

15 WHEREAS, currently, the Department of Business, Economic  
16 Development, and Tourism conducts tourism promotion on behalf  
17 of the State through a contractual relationship with the Hawaii  
18 Visitors and Convention Bureau (HVCB), a private, nonprofit  
19 corporation; and  
20

21 WHEREAS, while other tourist destinations have moved in  
22 recent years towards greater private sector participation and  
23 funding and tourism promotion, Hawaii has been moving the other  
24 way; and  
25

26 WHEREAS, initially established as a 50-50 match of public-  
27 private funding, the State's share of HVCB funding increased in  
28 the 1970s and 1980s to the 70 to 80 percent range, has since  
29 risen to 93 percent, and will increase further to 95 percent if  
30 HVCB's current biennium budget request is approved; and  
31

32 WHEREAS, in light of the foregoing and the State's current  
33 fiscal situation, several measures have been introduced in the  
34 Nineteenth Legislature proposing alternative options to funding  
35 and managing Hawaii's tourism promotion and marketing program,  
36 including measures:

- 1
- 2 (1) Providing that any additional funds appropriated to
- 3 HVCB during the next ten years above the amount
- 4 appropriated for FY 1996-1997 shall be matched by
- 5 private sources on an increasing, incremental basis,
- 6 beginning with 10 percent during the first year
- 7 covered;
- 8
- 9 (2) Allowing majority state representation on the HVCB
- 10 board, and increasing the general excise tax, use,
- 11 and public service company tax rates, and requiring
- 12 that amounts collected representing the difference
- 13 between the new and old rates be deposited into a new
- 14 special fund to be used to pay the expenses of HVCB;
- 15 and
- 16
- 17 (3) Establishing HVCB as a public body within the
- 18 Department of Budget and Finance, providing for
- 19 tourism related business assessments, and creating a
- 20 new visitor industry promotion special fund;

21  
22 and

23  
24 WHEREAS, the financial future of the State dictates that  
25 these and other relevant funding options must be carefully  
26 studied, and the most advantageous option that promises  
27 accountability and measurable outcomes promptly implemented, in  
28 order to continue successfully marketing the State as a tourist  
29 destination; now, therefore,

30  
31 BE IT RESOLVED by the Senate of the Nineteenth Legislature  
32 of the State of Hawaii, Regular Session of 1997, that the  
33 Legislative Reference Bureau is requested to conduct a study on  
34 alternative funding options and corresponding outcomes that may  
35 be possible for tourism marketing and promotion, including  
36 those referred to in this Resolution, and to recommend ways of  
37 improving accountability and the measurement of performance  
38 targets and objectives; and

39  
40 BE IT FURTHER RESOLVED that the Legislative Reference  
41 Bureau submit its report and recommendations to the Legislature  
42 no later than twenty days prior to the convening of the 1998

1 Regular Session; and

2

3 BE IT FURTHER RESOLVED that certified copies of this  
4 Resolution be transmitted to the Director of the Legislative  
5 Reference Bureau, the Director of Business, Economic  
6 Development, and Tourism, and the President of the Hawaii  
7 Visitors and Convention Bureau.

**Appendix E**

THE SENATE  
NINETEENTH LEGISLATURE, 1997  
STATE OF HAWAII

S.B. NO.

1843  
S.D. 1

**A BILL FOR AN ACT**

RELATING TO THE HAWAII VISITORS AND CONVENTION BUREAU.

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

1       SECTION 1. The legislature finds that the Hawaii Visitors  
2 and Convention Bureau is a private, nonprofit organization with  
3 which the State has had a contractual agreement since 1959 for  
4 the promotion and development of Hawaii as a visitor destination.  
5 In 1959, the State provided fifty per cent of the total revenues  
6 supporting the Hawaii Visitors and Convention Bureau. Since that  
7 date, the State's support of Hawaii Visitors and Convention  
8 Bureau has steadily increased from fifty per cent to over ninety  
9 per cent.

10       Over the past decade, the State's contract with the Hawaii  
11 Visitors and Convention Bureau has increased from \$7 million in  
12 fiscal year 1986-1987 to \$25 million in fiscal year 1996-1997.  
13 In a 1993 management and financial audit of the Hawaii Visitors  
14 and Convention Bureau, the Auditor found that the reports from  
15 the Hawaii Visitors and Convention Bureau were not useful in  
16 determining whether state funds were being used efficiently or  
17 effectively. In the same management and financial audit, the  
18 Auditor found that the Hawaii Visitors and Convention Bureau's

1 board of directors and private membership were not accountable  
2 for, nor were they scrutinizing expenditures by, the Hawaii  
3 Visitors and Convention Bureau.

4 According to a 1994 response from the Hawaii Visitors and  
5 Convention Bureau to the Auditor, the membership committee of the  
6 Hawaii Visitors and Convention Bureau would be initiating efforts  
7 to generate additional private revenues from, as well as more  
8 active participation by, the private sector. According to recent  
9 statistics from the department of business, economic development,  
10 and tourism, the Hawaii Visitors and Convention Bureau private  
11 contributions remain at less than ten per cent of the total  
12 Hawaii Visitors and Convention Bureau budget.

13 In light of these findings, the legislature believes that  
14 the State no longer has sufficient resources to continue to  
15 provide ninety per cent of the financial support for the Hawaii  
16 Visitors and Convention Bureau, nor can the State increase  
17 financial support for promotional efforts for which there is no  
18 clear indication of returns on the investment.

19 The purpose of this Act is to require an incremental  
20 increase of private sector funding to the Hawaii Visitors and  
21 Convention Bureau.

22 SECTION 2. For the next ten consecutive fiscal years,  
23 beginning with fiscal year 1997-1998, the department of business,



1 economic development, and tourism shall restrict its Hawaii  
2 Visitors and Convention Bureau appropriation requests and  
3 disbursements as follows:

4 (1) For fiscal year 1997-1998 - ten per cent of any amount  
5 in excess of the total amount of state funding provided  
6 to the Hawaii Visitors and Convention Bureau in fiscal  
7 year 1996-1997 shall be matched by private sources;

8 (2) For fiscal year 1998-1999 - twenty per cent of any  
9 amount in excess of the total amount of state funding  
10 provided to the Hawaii Visitors and Convention Bureau  
11 in fiscal year 1996-1997 shall be matched by private  
12 sources;

13 (3) For fiscal year 1999-2000 - thirty per cent of any  
14 amount in excess of the total amount of state funding  
15 provided to the Hawaii Visitors and Convention Bureau  
16 in fiscal year 1996-1997 shall be matched by private  
17 sources;

18 (4) For fiscal year 2000-2001 - forty per cent of any  
19 amount in excess of the total amount of state funding  
20 provided to the Hawaii Visitors and Convention Bureau  
21 in fiscal year 1996-1997 shall be matched by private  
22 sources;

23 (5) For fiscal year 2001-2002 - fifty per cent of any  
24 amount in excess of the total amount of state funding

1 provided to the Hawaii Visitors and Convention Bureau  
2 in fiscal year 1996-1997 shall be matched by private  
3 sources;

4 (6) For fiscal year 2002-2003 - sixty per cent of any  
5 amount in excess of the total amount of state funding  
6 provided to the Hawaii Visitors and Convention Bureau  
7 in fiscal year 1996-1997 shall be matched by private  
8 sources;

9 (7) For fiscal year 2003-2004 - seventy per cent of any  
10 amount in excess of the total amount of state funding  
11 provided to the Hawaii Visitors and Convention Bureau  
12 in fiscal year 1996-1997 shall be matched by private  
13 sources;

14 (8) For fiscal year 2004-2005 - eighty per cent of any  
15 amount in excess of the total amount of state funding  
16 provided to the Hawaii Visitors and Convention Bureau  
17 in fiscal year 1996-1997 shall be matched by private  
18 sources;

19 (9) For fiscal year 2005-2006 - ninety per cent of any  
20 amount in excess of the total amount of state funding  
21 provided to the Hawaii Visitors and Convention Bureau  
22 in fiscal year 1996-1997 shall be matched by private  
23 sources;

1 (10) For fiscal year 2006-2007 - one-hundred per cent of any  
2 amount in excess of the total amount of state funding  
3 provided to the Hawaii Visitors and Convention Bureau  
4 in fiscal year 1996-1997 shall be matched by private  
5 sources.

6 SECTION 3. This Act shall take effect on July 1, 1997.

Appendix F

THE SENATE  
NINETEENTH LEGISLATURE, 1997  
STATE OF HAWAII

S.B. NO. 1933

**A BILL FOR AN ACT**

RELATING TO TOURISM.

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

1

PART I.

2

SECTION 1. The legislature finds that tourism is important

3

to the economic well being of the State, and that the State is

4

facing increasingly greater competition in attracting tourists.

5

It is important that the State aggressively promote tourism,

6

develop new markets, and discover new ways to increase the number

7

of visitors coming to the State if it is to successfully meet the

8

greater competition for tourists that it faces.

9

The anticipated completion of the convention center in the

10

near future also opens new markets and makes new marketing

11

methods possible. The health of the travel industry is of

12

importance to everyone in this State, and the successful

13

marketing of the State as a tourist destination is a legitimate

14

public concern. The legislature finds it appropriate to fully

15

fund Hawaii Visitors and Convention Bureau in return for the

16

governor, the senate president, and the speaker of the house of

17

representative appointing a majority of the board of the Hawaii

18

Visitors and Convention Bureau.

1 It is the purpose of this Act to ensure the successful  
2 marketing of the State as a tourist destination.

3 SECTION 2. Chapter 203, Hawaii Revised Statutes, is amended  
4 by adding two new sections to be appropriately designated and to  
5 read as follows:

6 **"§203- Funding of the Hawaii Visitors and Convention**

7 **Bureau.** (a) Notwithstanding any other law to the contrary, the  
8 State may enter into agreement with the Hawaii Visitors and  
9 Convention Bureau to perform tourism promotion, marketing,  
10 development, and other services required or deemed necessary by  
11 the State to promote tourism. If the agreement provides that the  
12 State will fully fund the operations of the Hawaii Visitors and  
13 Convention Bureau, then the members of the Bureau's board shall  
14 be appointed as provided in subsection (b).

15 (b) Sixty per cent of members on the board of the Hawaii  
16 Visitors and Convention Bureau shall be appointed as provided in  
17 this subsection pursuant to any agreement entered into under  
18 subsection (a). The members on the board shall be appointed as  
19 follows:

20 (1) The governor shall appoint \_\_\_\_\_ members to the board;

21 and

22 (2) The president of the senate and the speaker of the  
23 house shall each appoint \_\_\_\_\_ members to the board.

1 The appointments made under this subsection shall not be subject  
2 to section 26-34; provided that the members shall not serve more  
3 then four years and may be removed by the appointing authority.  
4 In case of vacancy, the appointing authority of the member  
5 creating the vacancy shall fill the vacancy for a new four year  
6 term.

7 **§203- Hawaii visitors and convention special fund;**  
8 **contingent.** (a) There is established in the state treasury the  
9 Hawaii Visitors and Convention Bureau special fund. If the state  
10 enters into an agreement with the Hawaii Visitors and Convention  
11 Bureau as authorized by section 203- , then the difference in  
12 tax revenues between four per cent and four per cent under  
13 sections 237-13, 237-15, 237-16, 238-2, and 239-6, shall be  
14 deposited into the special fund established in this subsection.

15 (b) Moneys in the Hawaii Visitors and Convention Bureau  
16 special fund shall be expended by the department of business,  
17 economic development, and tourism and shall be used to pay the  
18 expenses of the Hawaii Visitors and Convention Bureau."

19 SECTION 3. This part shall take effect on January 1, 1998.

20 **PART II.**

21 SECTION 4. Section 237-13, Hawaii Revised Statutes, is  
22 amended to read:

1       "**§237-13 Imposition of tax.** There is hereby levied and  
2 shall be assessed and collected annually privilege taxes against  
3 persons on account of their business and other activities in the  
4 State measured by the application of rates against values of  
5 products, gross proceeds of sales, or gross income, whichever is  
6 specified, as follows:

7       (1) Tax on manufacturers.

8       (A) Upon every person engaging or continuing within  
9       the State in the business of manufacturing,  
10       including compounding, canning, preserving,  
11       packing, printing, publishing, milling,  
12       processing, refining, or preparing for sale,  
13       profit, or commercial use, either directly or  
14       through the activity of others, in whole or in  
15       part, any article or articles, substance or  
16       substances, commodity or commodities, the amount  
17       of the tax to be equal to the value of the  
18       articles, substances, or commodities,  
19       manufactured, compounded, canned, preserved,  
20       packed, printed, milled, processed, refined, or  
21       prepared, for sale, as shown by the gross proceeds  
22       derived from the sale thereof by the manufacturer  
23       or person compounding, preparing, or printing  
24       them, multiplied by one-half of one per cent.

1 (B) The measure of the tax on manufacturers is the  
2 value of the entire product for sale, regardless  
3 of the place of sale or the fact that deliveries  
4 may be made to points outside the State.

5 (C) If any person liable for the tax on manufacturers  
6 ships or transports the person's product, or any  
7 part thereof, out of the State, whether in a  
8 finished or unfinished condition, or sells the  
9 same for delivery outside of the State (for  
10 example, consigned to a mainland purchaser via  
11 common carrier f.o.b. Honolulu), the value of the  
12 products in the condition or form in which they  
13 exist immediately before entering interstate or  
14 foreign commerce, determined as hereinafter  
15 provided, shall be the basis for the assessment of  
16 the tax imposed by this paragraph. This tax shall  
17 be due and payable as of the date of entry of the  
18 products into interstate or foreign commerce,  
19 whether the products are then sold or not. The  
20 department of taxation shall determine the basis  
21 for assessment, as provided by this paragraph, as  
22 follows:



- 1 (i) If the products at the time of their entry  
2 into interstate or foreign commerce already  
3 have been sold, the gross proceeds of sale,  
4 less the transportation expenses, if any,  
5 incurred in realizing the gross proceeds for  
6 transportation from the time of entry of the  
7 products into interstate or foreign commerce,  
8 including insurance and storage in transit,  
9 shall be the measure of the value of the  
10 products.
- 11 (ii) If the products have not been sold at the  
12 time of their entry into interstate or  
13 foreign commerce, and in cases governed by  
14 clause (i) in which the products are sold  
15 under circumstances such that the gross  
16 proceeds of sale are not indicative of the  
17 true value of the products, the value of the  
18 products constituting the basis for  
19 assessment shall correspond as nearly as  
20 possible to the gross proceeds of sales for  
21 delivery outside the State, adjusted as  
22 provided in clause (i), or if sufficient data  
23 are not available, sales in the State, of

1 similar products of like quality and  
2 character and in similar quantities, made by  
3 the taxpayer (unless not indicative of the  
4 true value) or by others. Sales outside the  
5 State, adjusted as provided in clause (i),  
6 may be considered when they constitute the  
7 best available data. The department shall  
8 prescribe uniform and equitable rules for  
9 ascertaining such values.

10 (iii) At the election of the taxpayer and with the  
11 approval of the department, the taxpayer may  
12 make the taxpayer's returns under clause (i)  
13 even though the products have not been sold  
14 at the time of their entry into interstate or  
15 foreign commerce.

16 (iv) In all cases in which products leave the  
17 State in an unfinished condition, the basis  
18 for assessment shall be adjusted so as to  
19 deduct such portion of the value as is  
20 attributable to the finishing of the goods  
21 outside the State.

22 (2) Tax on business of selling tangible personal property;  
23 producing.

1 (A) Upon every person engaging or continuing in the  
2 business of selling any tangible personal property  
3 whatsoever (not including, however, bonds or other  
4 evidence of indebtedness, or stocks), there is  
5 likewise hereby levied, and shall be assessed and  
6 collected, a tax equivalent to [four] four per  
7 cent of the gross proceeds of sales of the  
8 business; provided that insofar as certain  
9 retailing is taxed by section 237-16, the tax  
10 shall be that levied by section 237-16, and in the  
11 case of a wholesaler, the tax shall be equal to  
12 one-half of one per cent of the gross proceeds of  
13 sales of the business. Upon every person engaging  
14 or continuing within this State in the business of  
15 a producer, the tax shall be equal to one-half of  
16 one per cent of the gross proceeds of sales of the  
17 business, or the value of the products, for sale,  
18 if sold for delivery outside the State or shipped  
19 or transported out of the State, and the value of  
20 the products shall be determined in the same  
21 manner as the value of manufactured products  
22 covered in the cases under paragraph (1)(C).

1 (B) Gross proceeds of sales of tangible property in  
2 interstate and foreign commerce shall constitute a  
3 part of the measure of the tax imposed on persons  
4 in the business of selling tangible personal  
5 property, to the extent, under the conditions, and  
6 in accordance with the provisions of the  
7 Constitution of the United States and the Acts of  
8 the Congress of the United States which may be now  
9 in force or may be hereafter adopted, and whenever  
10 there occurs in the State an activity to which,  
11 under the Constitution and Acts of Congress, there  
12 may be attributed gross proceeds of sales, such  
13 gross proceeds shall be so attributed.

14 (C) No manufacturer or producer, engaged in such  
15 business in the State and selling the  
16 manufacturer's or producer's products for delivery  
17 outside of the State (for example, consigned to a  
18 mainland purchaser via common carrier f.o.b.  
19 Honolulu), shall be required to pay the tax  
20 imposed in this chapter for the privilege of so  
21 selling the products, and the value or gross  
22 proceeds of sales of the products shall be  
23 included only in determining the measure of the

1 tax imposed upon the manufacturer or producer as  
2 such.

3 (D) When a manufacturer or producer, engaged in such  
4 business in the State, also is engaged in selling  
5 the manufacturer's or producer's products in the  
6 State at wholesale, retail, or in any other  
7 manner, the tax for the privilege of engaging in  
8 the business of selling the products in the State  
9 shall apply to the manufacturer or producer as  
10 well as the tax for the privilege of manufacturing  
11 or producing in the State, and the manufacturer or  
12 producer shall make the returns of the gross  
13 proceeds of the wholesale, retail, or other sales  
14 required for the privilege of selling in the  
15 State, as well as making the returns of the value  
16 or gross proceeds of sales of the products  
17 required for the privilege of manufacturing or  
18 producing in the State. The manufacturer or  
19 producer shall pay the tax imposed in this chapter  
20 for the privilege of selling its products in the  
21 State, and the value or gross proceeds of sales of  
22 the products, thus subjected to tax, may be  
23 deducted insofar as duplicated as to the same

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

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

15 (F) The department, by rule, may provide that a seller  
16 may take from the purchaser of tangible personal  
17 property a certificate, in such form as the  
18 department shall prescribe, certifying that the  
19 sale is a sale at wholesale. If the certificate  
20 is so provided for by rule of the department:

21 (i) Any purchaser who furnishes such a  
22 certificate shall be obligated to pay to the  
23 seller, upon demand, if the sale in fact is

1 not at wholesale, the amount of the  
2 additional tax which by reason thereof is  
3 imposed upon the seller; and

4 (ii) The absence of such a certificate, unless the  
5 sales of the business are exclusively at  
6 wholesale, in itself shall give rise to the  
7 presumption that the sale is not at  
8 wholesale.

9 (3) Tax upon contractors.

10 (A) Upon every person engaging or continuing within  
11 the State in the business of contracting, the tax  
12 shall be equal to [four] four per cent of the  
13 gross income of the business; provided that  
14 insofar as the business of contracting is taxed by  
15 section 237-16, which relates to certain  
16 retailing, the tax shall be that levied by section  
17 237-16[.]; provided that, if gross income subject  
18 to taxation under this paragraph is received as  
19 payments after December 31, 1997, upon written  
20 contracts entered into before the effective date  
21 of this Act, and the written contracts do not  
22 provide for passing on increased rates of taxes,  
23 the general excise tax shall be paid at a tax rate

1 of four per cent until the contracts are amended  
2 in any manner at which time the general excise tax  
3 under this paragraph shall be imposed at the tax  
4 rate of four per cent. The tax rate of  
5 four per cent shall be imposed on the gross  
6 income from all contracts entered into after the  
7 effective date of this Act whether or not the  
8 contract allows for the passing on of any tax or  
9 tax increases.

10 (B) In computing the tax levied under this paragraph  
11 or section 237-16, there shall be deducted from  
12 the gross income of the taxpayer so much thereof  
13 as has been included in the measure of the tax  
14 levied under subparagraph (A) or section 237-16,  
15 on:

- 16 (i) Another taxpayer who is a contractor, as  
17 defined in section 237-6;
- 18 (ii) A specialty contractor, duly licensed by the  
19 department of commerce and consumer affairs  
20 pursuant to section 444-9, in respect of the  
21 specialty contractor's business as such; or
- 22 (iii) A specialty contractor who is not licensed by  
23 the department of commerce and consumer



1           affairs pursuant to section 444-9, but who  
2           performs contracting activities on federal  
3           military installations and nowhere else in  
4           this State,  
5           if the tax on the amount so deducted has been paid  
6           by the other person, or has been withheld by the  
7           taxpayer and shall be paid over by the taxpayer to  
8           the assessor at the time of filing the return,  
9           such withholding being authorized by this  
10          paragraph; but any person claiming a deduction  
11          under this paragraph shall be required to show in  
12          the person's return the name of the person paying  
13          the tax on the amount deducted by the person or  
14          from whom the tax was withheld, and shall issue a  
15          receipt for any amount of tax withheld, which upon  
16          filing by the other taxpayer with the taxpayer's  
17          return, shall relieve the other taxpayer of  
18          liability for the amount of tax withheld.

19        (C) In computing the tax levied under this paragraph  
20        against any federal cost-plus contractor, there  
21        shall be excluded from the gross income of the  
22        contractor so much thereof as fulfills the  
23        following requirements:

- 1 (i) The gross income exempted shall constitute  
2 reimbursement of costs incurred for  
3 materials, plant, or equipment purchased from  
4 a taxpayer licensed under this chapter, not  
5 exceeding the gross proceeds of sale of the  
6 taxpayer on account of the transaction.
- 7 (ii) The taxpayer making the sale shall have  
8 certified to the department that the taxpayer  
9 is taxable with respect to the gross proceeds  
10 of the sale, and that the taxpayer elects to  
11 have the tax on such gross income computed  
12 the same as upon a sale to the state  
13 government.
- 14 (D) A person who, as a business or as a part of a  
15 business in which the person is engaged, erects,  
16 constructs, or improves any building or structure,  
17 of any kind or description, or makes, constructs,  
18 or improves any road, street, sidewalk, sewer, or  
19 water system, or other improvements on land held  
20 by the person (whether held as a leasehold, fee  
21 simple, or otherwise), upon the sale or other  
22 disposition of the land or improvements, even if  
23 the work was not done pursuant to a contract,

1 shall be liable to the same tax as if engaged in  
2 the business of contracting, unless the person  
3 shows that at the time the person was engaged in  
4 making the improvements it was, and for the period  
5 of at least one year after completion of the  
6 building, structure, or other improvements, it  
7 continued to be the person's purpose to hold and  
8 not sell or otherwise dispose of the land or  
9 improvements. The tax in respect of the  
10 improvements shall be measured by the amount of  
11 the proceeds of the sale or other disposition that  
12 is attributable to the erection, construction, or  
13 improvement of such building or structure, or the  
14 making, constructing, or improving of the road,  
15 street, sidewalk, sewer, or water system, or other  
16 improvements. The measure of tax in respect of  
17 the improvements shall not exceed the amount which  
18 would have been taxable had the work been  
19 performed by another, subject as in other cases to  
20 the deductions allowed by subparagraph (B). Upon  
21 the election of the taxpayer, this paragraph may  
22 be applied notwithstanding the improvements were  
23 not made by the taxpayer, or were not made as a

1 business or as a part of a business, or were made  
2 with the intention of holding the same. However,  
3 this paragraph shall not apply in respect of any  
4 proceeds that constitute or are in the nature of  
5 rent; all such gross income shall be taxable under  
6 paragraph (10).

7 (4) Tax upon theaters, amusements, radio broadcasting  
8 stations, etc. Upon every person engaging or  
9 continuing within the State in the business of  
10 operating a theater, opera house, moving picture show,  
11 vaudeville, amusement park, dance hall, skating rink,  
12 radio broadcasting station, or any other place at which  
13 amusements are offered to the public, the tax shall be  
14 equal to [four] four per cent of the gross income  
15 of the business.

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

1 (6) Tax on service business. Upon every person engaging or  
2 continuing within the State in any service business or  
3 calling not otherwise specifically taxed under this  
4 chapter, there is likewise hereby levied and shall be  
5 assessed and collected a tax equal to [four]  
6 four per cent of the gross income of any such  
7 business; provided that where any person engaging or  
8 continuing within the State in any service business or  
9 calling renders such services upon the order of or at  
10 the request of another taxpayer who is engaged in the  
11 service business and who, in fact, acts as or acts in  
12 the nature of an intermediary between the person  
13 rendering such services and the ultimate recipient of  
14 the benefits of such services, so much of the gross  
15 income as is received by the person rendering the  
16 services shall be subjected to the tax at the rate of  
17 one-half of one per cent and all of the gross income  
18 received by the intermediary from the principal shall  
19 be subjected to a tax at the rate of [four]  
20 four per cent; and provided that where any person  
21 is engaged in the business of selling interstate or  
22 foreign common carrier telecommunication services  
23 within and without the State, the tax shall be imposed

1 on that portion of gross income received by any such  
2 person from service which is originated or terminated  
3 in this State and is charged to a telephone number,  
4 customer, or account in this State notwithstanding any  
5 other state law (except for the exemption under section  
6 237-23(a)(1)) to the contrary. If, under the  
7 Constitution and laws of the United States, the entire  
8 gross income as determined under this paragraph of a  
9 business selling interstate or foreign common carrier  
10 telecommunication services cannot be included in the  
11 measure of the tax, such gross income shall be  
12 apportioned as provided in section 237-21; provided  
13 that the apportionment factor and formula shall be the  
14 same for all persons providing such services in the  
15 State.

16 (7) Tax on insurance solicitors and agents. Upon every  
17 person engaged as a licensed solicitor, general agent,  
18 or subagent pursuant to chapter 431, there is hereby  
19 levied and shall be assessed and collected a tax equal  
20 to .15 per cent of the commissions due to such  
21 activity.

22 (8) Professions. Upon every person engaging or continuing  
23 within the State in the practice of a profession,

1 including those expounding the religious doctrines of  
2 any church, there is likewise hereby levied and shall  
3 be assessed and collected a tax equal to [four]  
4 four per cent of the gross income on the practice  
5 or exposition.

6 (9) Tax on receipts of sugar benefit payments. Upon the  
7 amounts received from the United States government by  
8 any producer of sugar (or the producer's legal  
9 representative or heirs), as defined under and by  
10 virtue of the Sugar Act of 1948, as amended, or other  
11 Acts of the Congress of the United States relating  
12 thereto, there is hereby levied a tax of one-half of  
13 one per cent of the gross amount received, provided  
14 that the tax levied hereunder on any amount so received  
15 and actually disbursed to another by such producer in  
16 the form of a benefit payment shall be paid by the  
17 person or persons to whom such amount is actually  
18 disbursed, and the producer actually making any such  
19 benefit payment to another shall be entitled to claim  
20 on the producer's return a deduction from the gross  
21 amount taxable hereunder in the sum of the amount so  
22 disbursed. The amounts taxed under this paragraph  
23 shall not be taxable under any other paragraph,  
24 subsection, or section of this chapter.

1 (10) Tax on other business. Upon every person engaging or  
2 continuing within the State in any business, trade,  
3 activity, occupation, or calling not included in the  
4 preceding paragraphs or any other provisions of this  
5 chapter, there is likewise hereby levied and shall be  
6 assessed and collected, a tax equal to [four]  
7 four per cent of the gross income thereof. In  
8 addition, the rate prescribed by this paragraph shall  
9 apply to a business taxable under one or more of the  
10 preceding paragraphs or other provisions of this  
11 chapter, as to any gross income thereof not taxed  
12 thereunder as gross income or gross proceeds of sales  
13 or by taxing an equivalent value of products, unless  
14 specifically exempted."

15 SECTION 5. Section 237-15, Hawaii Revised Statutes, is  
16 amended to read:

17 "**§237-15 Technicians.** When technicians supply dentists or  
18 physicians with dentures, orthodontic devices, braces, and  
19 similar items which have been prepared by the technician in  
20 accordance with specifications furnished by the dentist or  
21 physician, and such items are to be used by the dentist or  
22 physician in the dentist's or physician's professional practice  
23 for a particular patient who is to pay the dentist or physician



1 for the same as a part of the dentist's or physician's  
2 professional services, the technician shall be taxed as though  
3 the technician were a manufacturer selling a product to a  
4 licensed retailer, rather than at the rate of [four]  
5 four per cent which is generally applied to professions and  
6 services."

7 SECTION 6. Section 237-16, Hawaii Revised Statutes, is  
8 amended as follows:

9 1. By amending subsection (b) to read:

10 "(b) There is hereby levied, and shall be assessed and  
11 collected annually, a privilege tax against persons engaging or  
12 continuing within the State in the retailing to which this  
13 section relates, on account of such retailing activities, as set  
14 forth in subsection (a), equal to [four] four per cent of the  
15 gross proceeds of sale or gross income received or derived from  
16 such retailing. Persons on whom a tax is imposed by this section  
17 hereinafter are called "retailers"."

18 2. By amending subsection (d) to read:

19 "(d) This section shall not cause the tax upon a taxpayer,  
20 with respect to any item of the taxpayer's gross income, to  
21 exceed [four] four per cent."

22 SECTION 7. Section 237-31, Hawaii Revised Statutes, is  
23 amended to read:

1       "**§237-31 Remittances.** All remittances of taxes imposed by  
2 this chapter shall be made by money, bank draft, check, cashier's  
3 check, money order, or certificate of deposit to the office of  
4 the department of taxation to which the return was transmitted.  
5 The department shall issue its receipts therefor to the taxpayer  
6 and shall pay the moneys into the state treasury as a state  
7 realization, to be kept and accounted for as provided by law;  
8 provided that [the]:

- 9       (1) The sum from all general excise tax revenues realized  
10       by the State that represents the difference between  
11       \$90,000,000 and the proceeds from the sale of any  
12       general obligation bonds authorized for that fiscal  
13       year for the purposes of the state educational  
14       facilities improvement special fund shall be deposited  
15       in the state treasury in each fiscal year to the credit  
16       of the state educational facilities improvement special  
17       fund; [provided further that a]
- 18       (2) A sum, not to exceed \$5,000,000, from all general  
19       excise tax revenues realized by the State shall be  
20       deposited in the state treasury in each fiscal year to  
21       the credit of the compound interest bond reserve  
22       fund[.]; and



1 commodities which are to be incorporated by the  
2 manufacturer into a finished or saleable product  
3 (including the container or package in which the  
4 product is contained) wherein it will remain in such  
5 form as to be perceptible to the senses, and which  
6 finished or saleable product is to be sold in such  
7 manner as to result in a further tax on the activity of  
8 the manufacturer as the manufacturer or as a  
9 wholesaler, and not as a retailer, there shall be no  
10 tax, provided that if the wholesaler, jobber, or  
11 manufacturer is also engaged in business as a retailer  
12 (so classed under chapter 237), paragraph (2) shall  
13 apply to the wholesaler, jobber, or manufacturer, but  
14 the director of taxation shall refund to the  
15 wholesaler, jobber, or manufacturer, in the manner  
16 provided under section 231-23(c) such amount of tax as  
17 the wholesaler, jobber, or manufacturer shall, to the  
18 satisfaction of the director, establish to have been  
19 paid by the wholesaler, jobber, or manufacturer to the  
20 director with respect to property which has been used  
21 by the wholesaler, jobber, or manufacturer for the  
22 purposes stated in this paragraph.

1 (2) If the importer or purchaser is licensed under chapter  
2 237 and is (A) a retailer or other person importing or  
3 purchasing for purposes of resale, not exempted by  
4 paragraph (1), or (B) a manufacturer importing or  
5 purchasing material or commodities which are to be  
6 incorporated by the manufacturer into a finished or  
7 saleable product (including the container or package in  
8 which the product is contained) wherein it will remain  
9 in such form as to be perceptible to the senses, and  
10 which finished or saleable product is to be sold at  
11 retail in this State, in such manner as to result in a  
12 further tax on the activity of the manufacturer in  
13 selling such products at retail, or (C) a contractor  
14 importing or purchasing material or commodities which  
15 are to be incorporated by the contractor into the  
16 finished work or project required by the contract and  
17 which will remain in such finished work or project in  
18 such form as to be perceptible to the senses, the tax  
19 shall be one-half of one per cent of the purchase price  
20 of the property, if the purchase and sale are  
21 consummated in Hawaii; or, if there is no purchase  
22 price applicable thereto, or if the purchase or sale is  
23 consummated outside of Hawaii, then one-half of one per  
24 cent of the value of such property.

1 (3) In all other cases, [four] four per cent of the  
2 value of the property."

3 SECTION 10. Section 238-14, Hawaii Revised Statutes, is  
4 amended to read:

5 "**§238-14 Taxes state realizations.** All taxes collected  
6 under this chapter shall be state realizations[.]; provided that  
7 the revenues realized by the State that represent the difference  
8 between four per cent and four per cent shall be deposited into  
9 the Hawaii Visitors and Convention Bureau special fund."

10 SECTION 11. This part shall take effect on January 1, 1998,  
11 and shall apply to all taxes accruing after December 31, 1997.

12 **PART IV.**

13 SECTION 12. Section 239-6, Hawaii Revised Statutes, is  
14 amended to read:

15 "§239-6 Airlines, certain carriers. There shall be levied  
16 and assessed upon each airline a tax of [four] four per cent  
17 of its gross income each year from the airline business; provided  
18 that if an airline adopts a rate schedule for students in grade  
19 twelve or below travelling in school groups providing such  
20 students at reasonable hours a rate less than one-half of the  
21 regular adult fare, the tax shall be three per cent of its gross  
22 income each year from the airline business. There shall be  
23 levied and assessed upon each motor carrier, each common carrier

1 by water, and upon each contract carrier other than a motor  
2 carrier, a tax of [four] four per cent of its gross income  
3 each year from the motor carrier or contract carrier business.

4 The tax imposed by this section is a means of taxing the personal  
5 property of the airline or other carrier, tangible and  
6 intangible, including going concern value, and is in lieu of the  
7 tax imposed by chapter 237 but is not in lieu of any other tax."

8 SECTION 13. Section 239-10, Hawaii Revised Statutes, is  
9 amended to read:

10 "**§239-10 Disposition of revenues.** All taxes collected  
11 under this chapter shall be state realizations[.]; provided that  
12 the revenues realized by the State that represent the difference  
13 between four per cent and four per cent shall be deposited into  
14 the Hawaii Visitors and Convention Bureau special fund."

15 SECTION 14. Section 239-9, Hawaii Revised Statutes, is  
16 amended by amending subsection (c) to read as follows:

17 "(c) First year of doing business. The measure of the tax  
18 for the year in which the company begins business is an estimate  
19 of the gross income of the public service company for that year  
20 or for the part of that year in which it is in business.

21 The tax thereon for the year in which the company begins  
22 business shall be at the following rate:

- 1 (1) If subsection (a)(2) applies, at the rate of [four]  
2 four per cent, or  
3 (2) If subsection (a)(1) applies but the company though in  
4 business at the commencement of the calendar year was  
5 not in business during any part of the preceding year,  
6 the tax shall be at the rate provided by sections 239-5  
7 and 239-6, except that there shall be no adjustment of  
8 the rate of tax on account of the ratio of the net  
9 income to the gross income being in excess of fifteen  
10 per cent and it shall be assumed for purposes of this  
11 subsection and subsection (e) that the ratio is fifteen  
12 per cent or less.

13 The estimate shall be made and the tax returned on or before  
14 the twentieth day of the third month after the month in which the  
15 company begins business and shall be subject to adjustment by the  
16 filing of an amended return as provided in subsection (e).

17 Payment of the tax shall accompany the return unless time for  
18 payment is extended by the director of taxation. The extension  
19 may be granted by the director in order to provide for payment of  
20 the tax in installments during the remainder of the taxable  
21 year."

22 SECTION 15. This part shall take effect on January 1, 1998,  
23 so that this part shall apply to the entire gross income received



1 for calendar year 1997, and for calendar years thereafter. In  
2 the case of a taxpayer operating on a fiscal year basis, this  
3 part shall apply to the entire gross income received for the  
4 fiscal year in which January 1, 1998, occurs and for fiscal years  
5 thereafter.

6 **PART V.**

7 SECTION 16. Statutory material to be repealed is bracketed.  
8 New statutory material is underscored.

9 SECTION 17. The parts in this Act shall take effect as  
10 provided and this Act shall take effect upon its approval.

11 INTRODUCED BY: \_\_\_\_\_

## A BILL FOR AN ACT

1 RELATING TO THE HAWAII VISITORS AND CONVENTION BUREAU.

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

3 SECTION 1. Chapter 203, Hawaii Revised Statutes, is amended  
4 by adding a new part to be appropriately designated and to read  
5 as follows:

6 **"PART . HAWAII VISITORS AND CONVENTION BUREAU**

7 **§203- Definitions.** As used in this chapter, unless the  
8 context clearly requires otherwise:

9 "Assessed business" means a person required to pay an  
10 assessment pursuant to this chapter.

11 "Board" means the board of directors of the Hawaii Visitors  
12 and Convention Bureau established in section 203- , and any  
13 successor thereto.

14 "Bureau" means the Hawaii Visitors and Convention Bureau  
15 established in section 203- .

16 "Chairperson" means the chairperson of the Hawaii Visitors  
17 and Convention Bureau board of directors.

18 "Department" means the department of budget and finance.

19 "Fund" means the visitor industry promotion special fund, as  
20 established in section 203- .

1 "Industry category" means the following classifications  
2 within the tourism industry:

- 3 (1) Accommodations;
- 4 (2) Restaurants and retail;
- 5 (3) Attractions and recreation; and
- 6 (4) Transportation and travel services.

7 "Industry segment" means a portion of an industry category.  
8 For example, rental cars are an industry segment of the  
9 transportation and travel services industry category.

10 "Person" means an individual, public entity, firm,  
11 corporation, association, or any other business unit.

12 **§203- Establishment of the Hawaii Visitors and**  
13 **Convention Bureau.** (a) There is established the Hawaii Visitors  
14 and Convention Bureau, which shall be a public body corporate and  
15 politic and an instrumentality and agency of the State. The  
16 bureau shall be placed with the department of budget and finance  
17 for administrative purposes, pursuant to section 26-35. The  
18 purpose of the bureau shall be to facilitate the growth and  
19 development of the tourism industry in Hawaii. Its duties shall  
20 include, but not be limited to:

- 21 (1) Providing marketing and related services as may be  
22 required to implement a marketing strategy for Hawaii;

- 1 (2) Providing marketing and related services as may be  
2 required to promote and advertise the Hawaii convention  
3 center;
- 4 (3) Maintaining a research program which may provide  
5 information critical to the State's formulation and  
6 implementation of the State's tourism and economic  
7 development programs;
- 8 (4) Receiving complaints relating to tourism activities,  
9 acting on these complaints or referring them to the  
10 appropriate organization for action; and
- 11 (5) Coordinating with the State where the bureau's tourism  
12 marketing services comprise a portion of an overall  
13 statewide economic development initiative.
- 14 (b) The governing body of the bureau shall consist of a  
15 board of directors having fifteen members appointed by the  
16 governor as provided in section 26-34, of which two shall be  
17 appointed from a list of nominees submitted by the president of  
18 the senate, and two shall be appointed from a list of nominees  
19 submitted by the speaker of the house of representatives. Ten of  
20 the members shall be representatives from various sectors of the  
21 tourism industry. The remaining members shall be from the  
22 general public and selected on the basis of their knowledge,  
23 interest, and proven expertise in, but not limited to, one or

1 more of the following fields: Hawaiian studies, public safety,  
2 and education. Each county shall have representation on the  
3 board at all times. The director of finance, or a designated  
4 representative, shall serve as an ex officio voting member of the  
5 board and as the chairperson until such time as a chairperson is  
6 elected by the board from its membership.

7 (c) The members of the board shall serve without  
8 compensation, but may be reimbursed for expenses, including  
9 travel expenses, incurred in the performance of their duties.

10 The members of the board shall be prohibited from engaging in  
11 contracted services with the bureau, no representative from the  
12 same business organization shall serve as a member of the board  
13 for more than one term, and no employee or officer of the  
14 department of business, economic development, and tourism shall  
15 serve as a member of the board.

16 (d) The board shall appoint a chief executive officer, who  
17 shall serve at the pleasure of the board and shall be exempt from  
18 chapters 76 and 77. The board shall set the salary and duties of  
19 the chief executive officer.

20 **§203- Powers, generally.** The bureau shall have all the  
21 powers necessary to carry out its purposes, including the  
22 following powers:

23 (1) To sue and be sued;

- 1 (2) To have a seal and alter the same at its pleasure;
- 2 (3) To make and execute, enter into, amend, supplement, and
- 3 carry out contracts and all other instruments necessary
- 4 or convenient for the exercise of its powers and
- 5 functions under this chapter;
- 6 (4) To make and alter bylaws for its organization and
- 7 internal management;
- 8 (5) Through its chief executive officer, to appoint
- 9 officers, agents, and employees, prescribe their duties
- 10 and qualifications, and fix their salaries, without
- 11 regard to chapters 76 and 77;
- 12 (6) To engage the services of consultants on a contractual
- 13 basis for rendering professional and technical
- 14 assistance and advice;
- 15 (7) To procure insurance against any loss in connection
- 16 with its property and other assets and operations in
- 17 such amounts and from such insurers as it deems
- 18 desirable;
- 19 (8) To accept and expend gifts or grants in any form from
- 20 any public agency or from any other source;
- 21 (9) To promote and market Hawaii as a tourism destination;
- 22 and
- 23 (10) To do all things necessary or proper to carry out the
- 24 purposes of this chapter.

1       **§203- Tourism related business assessment; generally.**

2       (a) The board shall determine a formula and establish guidelines  
3       to assess upon tourism related businesses a fee to develop a  
4       private-sector financing mechanism for the visitor industry which  
5       is fair to all segments and sizes of tourism related businesses.

6       All revenues generated from the assessment shall be used for  
7       visitor industry marketing and promotion. In order to be  
8       assessed, an industry segment must be defined with sufficient  
9       clarity to allow for the cost effective identification of  
10      assessed businesses within that segment. The board shall  
11      determine the following:

- 12      (1) Industry segments that will be included in the  
13      assessment;
- 14      (2) An assessment formula for each industry segment;
- 15      (3) Any types of business exempt from assessment;
- 16      (4) Percentages of funds to be levied against each industry  
17      category and segment. To the extent possible, the  
18      percentages shall be based upon quantifiable industry  
19      data. Funds to be levied against businesses shall bear  
20      an appropriate relationship to the benefit derived from  
21      travel and tourism by those businesses;
- 22      (5) Assessment methodology and rate of assessment within  
23      each industry segment, that may include, but is not

1 limited to, a percentage of gross revenue or a per  
2 transaction charge; and

3 (6) Businesses, if any, within a segment to be assessed at  
4 a reduced rate, which may be set at zero, whether  
5 temporarily or permanently, because they do not  
6 sufficiently benefit from travel and tourism.

7 (b) The board shall maintain a report on the percentage  
8 assessment allocation between industry categories and industry  
9 segments. The report shall also specify the reasons and  
10 methodology used for the allocations. This report shall be  
11 updated every time the assessment allocations are amended. The  
12 report shall be made available to any assessed business.

13 (c) The board may require any and all assessed businesses  
14 to maintain books and records that reflect their income or sales  
15 as reflected in the assessment, and to furnish the board with any  
16 information that, from time-to-time, may be requested by the  
17 board, and to permit the inspection by the board of portions of  
18 books and records that relate to the amount of assessment.

19 (d) Information pertaining to assessed businesses obtained  
20 by the board pursuant to this chapter is confidential and shall  
21 not be disclosed except to a person with the right to obtain the  
22 information, any attorney hired by the board who is employed to  
23 give legal advice upon it, or by court order.



1 (e) The bureau shall calculate the assessments due by each  
2 assessed business, and mail an assessment bill to each assessed  
3 business. The board shall determine how often assessments are  
4 collected, based upon available staffing resources. The board  
5 may stagger the assessment collection throughout the year, and  
6 charge businesses a prorated amount of assessment because of the  
7 staggered assessment period. The board and bureau shall not  
8 divulge the amount of assessment except as part of an assessment  
9 action.

10 (f) An assessed business may appeal an assessment to the  
11 board based upon the fact that the business does not meet the  
12 definition established for an assessed business within its  
13 industry segment or that the level of assessment is incorrect.  
14 If the error is based upon failure of the business to provide the  
15 required information in a timely manner, the board may fine the  
16 business as a condition of correcting the assessment.

17 (g) Notwithstanding any other provision of law, an assessed  
18 business may pass on some or all of the assessment to customers.  
19 An assessed business that is passing on the assessment may, but  
20 shall not be required to, separately identify or itemize the  
21 assessment on any document provided to a customer. Assessments  
22 levied pursuant to this chapter are not part of gross receipts or  
23 gross revenue for any purpose, including the calculation of

1 general excise or use tax and income pursuant to any lease;  
2 however, assessments that are passed on to customers shall be  
3 included in gross receipts for purposes of income and franchise  
4 taxes.

5 (h) The initial assessment level shall be approximately  
6 \$25,000,000. This figure is a target, and shall serve as the  
7 basis for setting assessment formulae, but the actual amount of  
8 collected assessments may be more or less than the assessment  
9 level.

10 (i) Notwithstanding any other provision of law, the board  
11 may utilize any and all records held by the State in order to  
12 establish and maintain an accurate list of businesses to be  
13 assessed, including information necessary to determine the amount  
14 of assessment owed by a business.

15 **§203- Tourism related business assessment; collection.**

16 The board shall collect the assessment from all assessed  
17 businesses, and in collecting the assessment the board may bring  
18 enforcement actions. Funds collected by the board shall be  
19 deposited into a visitor industry promotion special fund. Any  
20 costs relating to the collection of assessments incurred by the  
21 State shall be reimbursed by the board from the visitor industry  
22 promotion special fund. Subject to approval by the board, the  
23 bureau shall establish by rule the procedure for assessment  
24 collection.

1       **§203- Assessment lists.** The bureau shall develop a list  
2 of Hawaii businesses within each segment. Other state agencies  
3 shall assist the bureau in obtaining the names and addresses of  
4 these businesses. The bureau shall mail to each business  
5 identified on the list a form requesting information necessary to  
6 determine the assessment for that business. Any business failing  
7 to provide this information in a timely manner shall be assessed  
8 an amount determined by the board to represent the upper  
9 assessment level for that segment.

10       **§203- Board funding.** (a) Funding for the board is a  
11 cooperative venture. It is the intent of the legislature that  
12 the State shall be responsible for appropriating a minimum of  
13 \$        each fiscal year to tourism, and the industry shall be  
14 responsible for targeting the level of assessments for each  
15 fiscal year at \$        .

16        (b) The assessed funds shall be under the control of the  
17 board, which shall spend the funds consistent with board policies  
18 and the tourism marketing plan.

19       **§203- Assessment; debt.** Any assessment levied as  
20 provided in this chapter is a personal debt of every person so  
21 assessed and shall be due and payable to the board. If any  
22 assessed person fails to pay any assessment, the board may file a  
23 complaint against the person in a state court of competent  
24 jurisdiction for the collection of the assessment.

1       **§203- Assessment; failure to pay; penalty.** If any  
2 assessed business that is duly assessed pursuant to this chapter  
3 fails to pay to the board the assessed amount by the due date,  
4 the board may add to the unpaid assessment an amount not to  
5 exceed ten per cent of the unpaid assessment to defray the cost  
6 of enforcing the collection of the unpaid assessment. In  
7 addition to payment for the cost of enforcing a collection, the  
8 assessed business shall pay to the board a penalty equivalent to  
9 five per cent for each thirty days the assessment is unpaid,  
10 prorated over the days unpaid, commencing thirty days after the  
11 notice has been given to the assessed business of failure to pay  
12 the assessment on the date required, unless the board determines  
13 that the failure to pay is due to reasonable cause beyond the  
14 control of the assessed business.

15       **§203- Advance deposit.** (a) The board may require  
16 assessed businesses to deposit in advance the following amounts:  
17       (1) An amount for necessary expenses;  
18       (2) An amount that shall not exceed twenty-five per cent of  
19       the assessment to cover costs that are incurred prior  
20       to the receipt of sufficient funds from the assessment;  
21       and  
22       (3) The amount of any deposit that is required by the board  
23       shall be based upon the estimated assessment for the  
24       assessed business.

1 (b) In lieu of requiring advance deposits, or in order  
2 generally to provide funds for defraying administrative expenses  
3 or the expenses of implementing the tourism marketing plan until  
4 the time that sufficient moneys are collected for this purpose  
5 from the payment of the assessments that are established pursuant  
6 to this chapter, the board may receive and disburse for the  
7 express purposes contributions that are made by assessed  
8 businesses. If, however, collections from the payment of  
9 established assessments are sufficient to so warrant, the board  
10 shall authorize the repayment of contributions, or authorize the  
11 application of the contributions to the assessment obligations of  
12 persons that made the contributions.

13 **§203- Actuaries for penalty; penalty; suit.** (a) Any  
14 action for any penalty or other remedy under this chapter shall  
15 be commenced within three years from the date of the alleged  
16 violation. Every person who provides false information  
17 concerning an assessment shall be punished by a fine of not less  
18 than \$1,000 and not more than \$10,000.

19 (b) Any person who files false information concerning an  
20 assessment is civilly liable in an amount of not more than  
21 \$10,000, in addition to any amount owed as the assessment.

22 (c) When the board makes a determination that an assessment  
23 is deficient as to the payment due, the board may determine the

1 amount of the deficiency, including any applicable penalty, as  
2 provided in this chapter. After giving notice that a deficiency  
3 determination is proposed and an opportunity to file a report or  
4 provide supplemental information is provided, the board may make  
5 one or more deficiency determinations of the amount due for any  
6 reporting period based on information in the board's possession.  
7 When an assessed business is discontinued, a deficiency  
8 determination may be made at anytime thereafter as to the  
9 liability arising out of the operation of that business.

10 (d) If the board prevails in any action brought by the  
11 board to enforce this chapter, or any rule adopted hereunder, the  
12 defendant shall pay to the board all administrative costs and  
13 fees, including attorney's fees, incurred by the board in the  
14 prosecution of the action. Any money that is recovered shall  
15 reimburse the fund.

16 **§203- Visitor industry promotion special fund.** There is  
17 established a visitor industry promotion special fund into which  
18 all assessment fees and fines collected by the board shall be  
19 deposited. The fund shall be managed and administered by the  
20 board and shall only be used to promote and market Hawaii as a  
21 tourism destination."

22 SECTION 2. Section 203-1, Hawaii Revised Statutes, is  
23 repealed.

1       ["§203-1 **Duties and conditions.** Any law to the contrary  
2 notwithstanding, the department of business, economic  
3 development, and tourism may contract with the Hawaii Visitors  
4 Bureau. The department may add any additional provisions in the  
5 contract which it may deem necessary for effective tourist  
6 promotion and development."]

7       SECTION 3. Section 203-2, Hawaii Revised Statutes, is  
8 repealed.

9       ["§203-2 **Terms and conditions of contract.** The contract  
10 entered into with the Hawaii Visitors Bureau shall contain the  
11 following terms and conditions:

- 12       (1) The Hawaii Visitors Bureau shall receive any complaints  
13 relating to tourist activities from any person who  
14 files complaints with the Hawaii Visitors Bureau,  
15 report monthly to the department of business, economic  
16 development, and tourism, and make these complaints  
17 available for the inspection of all interested parties;
- 18       (2) No employee or officer of the department of business,  
19 economic development, and tourism shall serve as a  
20 member of the Hawaii Visitors Bureau executive board;  
21 and
- 22       (3) The Hawaii Visitors Bureau shall submit an annual  
23 report to the legislature and the department of

1 business, economic development, and tourism of its  
2 activities which compares anticipated results with  
3 funds expended and includes, but shall not be limited  
4 to:

5 (A) Goals and objectives in accordance with identified  
6 needs;

7 (B) Description and status of promotional projects and  
8 programs including those which may exceed the  
9 duration of the contract;

10 (C) Target markets;

11 (D) Analyses of programs and project effectiveness  
12 including their anticipated and actual results;  
13 and

14 (E) Program and project funding and costs."]

15 SECTION 4. Statutory material to be repealed is bracketed.

16 SECTION 5. This Act shall take effect upon its approval.

17 INTRODUCED BY: \_\_\_\_\_