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# A BILL FOR AN ACT

RELATING TO TAXATION.

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

1           SECTION 1. Chapter 231, Hawaii Revised Statutes, is  
2 amended by adding two new sections to be appropriately  
3 designated and to read as follows:

4           "§231-A Erroneous claim for refund or credit. Unless a  
5 person making a claim for a tax refund or credit in an excessive  
6 amount can prove that the person has a reasonable basis for  
7 making the claim, the person shall be liable for a penalty in an  
8 amount equal to twenty per cent of the excessive amount. For  
9 the purposes of this section, the term "excessive amount" means  
10 the amount that exceeds the amount of a claim for a refund or  
11 credit that is allowed by law.

12           §231-B Tax credits and exemptions; evaluation; report.

13           (a) The department shall perform an evaluation of the tax  
14 credits or tax exemptions provided in title 14 and scheduled for  
15 repeal in section 2 of Act , Session Laws of Hawaii 2008;  
16 provided that sections 235-15, 235-110.2, 235-110.8, 237-29,  
17 239-6.5, and 241-4.7 shall be evaluated by the department of  
18 human services.



1        (b) The department shall submit reports of the evaluations  
2 required by this section to the legislature no later than twenty  
3 days prior to the convening of:

4        (1) The 2010 regular session, for credits and exemptions  
5 that will be repealed on December 31, 2010;

6        (2) The 2011 regular session, for credits and exemptions  
7 that will be repealed on December 31, 2011; and

8        (3) The 2012 regular session, for credits and exemptions  
9 that will be repealed on December 31, 2012;

10 provided that the reports shall include the evaluations of  
11 credits and exemptions performed by the department of human  
12 services; provided further that no later than twenty days prior  
13 to the convening of the regular sessions of 2009 and 2010, the  
14 department shall also submit a progress report to the  
15 legislature on the planned uses and actual expenditures  
16 associated with the report.

17        (c) In evaluating the economic effects of the tax credits  
18 and tax exemptions provided in title 14 and scheduled for repeal  
19 in Act , Session Laws of Hawaii 2008, the department may:

20        (1) Contract with recognized technical experts  
21 knowledgeable in the field of economics;



1       (2) Establish a technical advisory group, which may  
2       include the department of labor and industrial  
3       relations, department of agriculture, department of  
4       commerce and consumer affairs, department of  
5       transportation, department of human services, and  
6       department of business, economic development, and  
7       tourism, to help identify and develop the data  
8       elements needed for the analyses; and

9       (3) Collect, process, and analyze data from federal,  
10       state, and local government sources.

11       (d) The data and economic analyses provided by the  
12       department in its reports to the legislature shall provide  
13       information sufficient to allow the legislature to determine  
14       whether the tax credits and tax exemptions provided under title  
15       14 have achieved or are achieving their intended objectives,  
16       whether they are consistent with public policies, and whether  
17       they should be reenacted, modified, or permitted to expire.

18       (e) If the department recommends that a tax credit or tax  
19       exemption should be modified, it shall provide with its report  
20       to the legislature, and with the assistance from the departments  
21       listed in subsection (c)(2), proposed draft legislation that,  
22       upon enactment, would effect the recommended modifications.



1        (f) If the department recommends that the law establishing  
2 a tax credit or tax exemption should not be reenacted, it shall  
3 make appropriate recommendations, with assistance from the  
4 departments listed in subsection (c)(2), to improve the  
5 operation of the tax credit or tax exemption, including  
6 recommendations for appropriate restrictions to be placed on the  
7 tax credit or tax exemption."

8        SECTION 2. **Repeal dates for tax credits and exemptions.**

9        (a) The following sections shall be repealed on December 31,  
10 2010:

- 11        (1) Section 235-9.5 (stock options from qualified high  
12            technology businesses excluded from taxation);
- 13        (2) Section 235-15 (tax credits to promote the purchase of  
14            child passenger restraint systems);
- 15        (3) Section 235-110.2 (credit for school repair and  
16            maintenance);
- 17        (4) Section 235-110.51 (technology infrastructure  
18            renovation tax credit);
- 19        (5) Section 237-24 (general excise tax; amounts not  
20            taxable);
- 21        (6) Section 237-24.3 (general excise tax; additional  
22            amounts not taxable);

- 1 (7) Section 237-24.9 (general excise tax; aircraft service  
2 and maintenance facility);
- 3 (8) Section 237-27 (general excise tax; exemption of  
4 certain petroleum refiners);
- 5 (9) Section 237-29.53 (general excise tax; exemption for  
6 contracting or services exported out of state);
- 7 (10) Section 237-29.55 (general excise tax; exemption for  
8 sale of tangible personal property for resale at  
9 wholesale);
- 10 (11) Section 237-29.8 (general excise tax; call centers;  
11 exemption; engaging in business; definitions); and
- 12 (12) Section 239-12 (public service company tax; call  
13 centers; exemption; engaging in business;  
14 definitions).
- 15 (b) The following sections and subsection shall be  
16 repealed on December 31, 2011:
- 17 (1) Section 235-110.6 (fuel tax credit for commercial  
18 fishers);
- 19 (2) Section 235-110.7 (capital goods excise tax credit);
- 20 (3) Section 237-16.8 (general excise tax; exemption of  
21 certain convention, conference, and trade show fees);



- 1 (4) Section 237-23 (general excise tax; exemptions,  
2 persons exempt, applications for exemption);
- 3 (5) Section 237-23.5 (general excise tax; related  
4 entities; common paymaster; certain exempt  
5 transactions);
- 6 (6) Section 237-24.5 (general excise tax; additional  
7 exemptions);
- 8 ~~(7) Section 237-24.7 (general excise tax; additional~~  
9 ~~amounts not taxable);~~
- 10 (8) Section 237-24.75 (general excise tax; additional  
11 exemptions);
- 12 (9) Section 237-25 (general excise tax; exemptions of  
13 sales and gross proceeds of sales to federal  
14 government, and credit unions);
- 15 (10) Section 237-28.1 (general excise tax; exemption of  
16 certain shipbuilding and ship repair business);
- 17 (11) Section 237-29.5 (general excise tax; exemption for  
18 sales of tangible personal property shipped out of the  
19 state); and
- 20 (12) Section 239-6.5 (public service company tax; tax  
21 credit for lifeline telephone service subsidy).



- 1 (c) The following sections shall be repealed on  
2 December 31, 2012:
- 3 (1) Section 235-12.5 (renewable energy technologies;  
4 income tax credit);
- 5 (2) Section 235-17 (motion picture, digital media, and  
6 film production income tax credit);
- 7 (3) Section 235-110.3 (ethanol facility tax credit);
- 8 (4) Section 235-110.8 (low-income housing tax credit);
- 9 (5) Section 237-26 (general excise tax; exemption of  
10 certain scientific contracts with the United States);
- 11 (6) Section 237-27.5 (general excise tax; air pollution  
12 control facility);
- 13 (7) Section 237-27.6 (general excise tax; solid waste  
14 processing, disposal, and electric generating  
15 facility; certain amounts exempt);
- 16 (8) Section 237-29 (general excise tax; exemptions for  
17 certified or approved housing projects);
- 18 (9) Section 241-4.7 (low-income housing; income tax  
19 credit); and
- 20 (10) Section 244D-4.3 (liquor tax; exemption for sales of  
21 liquor out of the state.



1 SECTION 3. There is appropriated out of the general  
2 revenues of the State of Hawaii the sum of \$ or so much  
3 thereof as may be necessary for fiscal year 2008-2009 to carry  
4 out the purposes of this Act, including additional resources,  
5 funding for permanent, full-time equivalent ( .00 FTE)  
6 positions (an economist, a research statistician, and an  
7 administrative rules specialist) in the department of taxation,  
8 and to reimburse other state agencies for costs incurred in  
9 performing tasks required by this Act.

10 The sum appropriated shall be expended by the department of  
11 taxation for the purposes of this Act.

12 SECTION 4. In codifying the new sections added by section  
13 1 of this Act, the revisor of statutes shall substitute  
14 appropriate section numbers for the letters used in designating  
15 the new sections in this Act.

16 SECTION 5. New statutory material is underscored.

17 SECTION 6. This Act shall take effect upon its approval;  
18 provided that section 3 shall take effect on July 1, 2008.





**Report Title:**

Tax Credits; Tax Exemptions; Evaluation

**Description:**

Requires the Department of Business, Economic Development, and Tourism, Department of Human Services, and Department of Taxation to evaluate certain tax credits and tax exemptions and report to legislature. Provides automatic repeal of the tax credits and tax exemptions. Provides penalty for excessive amounts filed for tax refunds and credits. (HB2942 HD1)

