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## A BILL FOR AN ACT

RELATING TO SECTION 529 COLLEGE SAVINGS PLAN.

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

1           SECTION 1. In 1996, Congress enacted Section 529 of the  
2 Internal Revenue Code of 1986, as amended, authorizing tax-  
3 deferred college savings plans now referred to as "529 Plans".  
4 Section 529 authorizes states to establish these programs to  
5 assist and encourage families to set aside funds for future  
6 higher education expenses.

7           Most states with an income tax offer some kind of in-state  
8 tax deduction or credit for contributions as an incentive for  
9 residents to participate in these college savings plans.

10           To encourage Hawaii families to save for college and to  
11 increase participation rates in college savings plans, this Act  
12 provides a state income tax deduction for contributions to a  
13 qualified 529 college savings plan.

14           SECTION 2. Section 235-7, Hawaii Revised Statutes, is  
15 amended to read as follows:

16           "**§235-7 Other provisions as to gross income, adjusted**  
17 **gross income, and taxable income.** (a) There shall be excluded  
18 from gross income, adjusted gross income, and taxable income:



- 1           (1) Income not subject to taxation by the State under the  
2           Constitution and laws of the United States;
- 3           (2) Rights, benefits, and other income exempted from  
4           taxation by section 88-91, having to do with the state  
5           retirement system, and the rights, benefits, and other  
6           income, comparable to the rights, benefits, and other  
7           income exempted by section 88-91, under any other  
8           public retirement system;
- 9           (3) Any compensation received in the form of a pension for  
10          past services;
- 11          (4) Compensation paid to a patient affected with Hansen's  
12          disease employed by the State or the United States in  
13          any hospital, settlement, or place for the treatment  
14          of Hansen's disease;
- 15          (5) Except as otherwise expressly provided, payments made  
16          by the United States or this State, under an act of  
17          Congress or a law of this State, which by express  
18          provision or administrative regulation or  
19          interpretation are exempt from both the normal and  
20          surtaxes of the United States, even though not so  
21          exempted by the Internal Revenue Code itself;



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- 1           (6) Any income expressly exempted or excluded from the  
2           measure of the tax imposed by this chapter by any  
3           other law of the State, it being the intent of this  
4           chapter not to repeal or supersede any express  
5           exemption or exclusion;
- 6           (7) Income received by each member of the reserve  
7           components of the Army, Navy, Air Force, Marine Corps,  
8           or Coast Guard of the United States of America, and  
9           the Hawaii national guard as compensation for  
10          performance of duty, equivalent to pay received for  
11          forty-eight drills (equivalent of twelve weekends) and  
12          fifteen days of annual duty, at an:
- 13          (A) E-1 pay grade after eight years of service;  
14             provided that this subparagraph shall apply to  
15             taxable years beginning after December 31, 2004;
- 16          (B) E-2 pay grade after eight years of service;  
17             provided that this subparagraph shall apply to  
18             taxable years beginning after December 31, 2005;
- 19          (C) E-3 pay grade after eight years of service;  
20             provided that this subparagraph shall apply to  
21             taxable years beginning after December 31, 2006;



1 (D) E-4 pay grade after eight years of service;  
2 provided that this subparagraph shall apply to  
3 taxable years beginning after December 31, 2007;  
4 and

5 (E) E-5 pay grade after eight years of service;  
6 provided that this subparagraph shall apply to  
7 taxable years beginning after December 31, 2008;

8 (8) Income derived from the operation of ships or aircraft  
9 if the income is exempt under the Internal Revenue  
10 Code pursuant to the provisions of an income tax  
11 treaty or agreement entered into by and between the  
12 United States and a foreign country; provided that the  
13 tax laws of the local governments of that country  
14 reciprocally exempt from the application of all of  
15 their net income taxes, the income derived from the  
16 operation of ships or aircraft that are documented or  
17 registered under the laws of the United States;

18 (9) The value of legal services provided by a prepaid  
19 legal service plan to a taxpayer, the taxpayer's  
20 spouse, and the taxpayer's dependents;

21 (10) Amounts paid, directly or indirectly, by a prepaid  
22 legal service plan to a taxpayer as payment or

1 reimbursement for the provision of legal services to  
2 the taxpayer, the taxpayer's spouse, and the  
3 taxpayer's dependents;

4 (11) Contributions by an employer to a prepaid legal  
5 service plan for compensation (through insurance or  
6 otherwise) to the employer's employees for the costs  
7 of legal services incurred by the employer's  
8 employees, their spouses, and their dependents;

9 (12) Amounts received in the form of a monthly surcharge by  
10 a utility acting on behalf of an affected utility  
11 under section 269-16.3 shall not be gross income,  
12 adjusted gross income, or taxable income for the  
13 acting utility under this chapter. Any amounts  
14 retained by the acting utility for collection or other  
15 costs shall not be included in this exemption; and

16 (13) One hundred per cent of the gain realized by a fee  
17 simple owner from the sale of a leased fee interest in  
18 units within a condominium project, cooperative  
19 project, or planned unit development to the  
20 association of apartment owners or the residential  
21 cooperative corporation of the leasehold units.

22 For purposes of this paragraph:



1 "Fee simple owner" shall have the same meaning as  
2 provided under section 516-1; provided that it shall  
3 include legal and equitable owners;

4 "Legal and equitable owner", and "leased fee  
5 interest" shall have the same meanings as provided  
6 under section 516-1; and

7 "Condominium project" and "cooperative project"  
8 shall have the same meanings as provided under section  
9 514C-1.

10 (b) There shall be included in gross income, adjusted  
11 gross income, and taxable income: (1) unless excluded by this  
12 chapter relating to the uniformed services of the United States,  
13 cost-of-living allowances and other payments exempted by  
14 section 912 of the Internal Revenue Code, but section 119 of the  
15 Internal Revenue Code nevertheless shall apply; (2) unless  
16 expressly exempted or excluded as provided by subsection (a)(6),  
17 interest on the obligations of a State or a political  
18 subdivision thereof.

19 (c) The deductions of or based on dividends paid or  
20 received, allowed to a corporation under chapter 1, subchapter  
21 B, Part VIII of the Internal Revenue Code, shall not be allowed.  
22 In lieu thereof there shall be allowed as a deduction the entire



1 amount of dividends received by any corporation upon the shares  
2 of stock of a national banking association, qualifying  
3 dividends, as defined in section 243(b) of the Internal Revenue  
4 Code, received by members of an affiliated group, or dividends  
5 received by a small business investment company operating under  
6 the Small Business Investment Act of 1958 (Public Law 85-699)  
7 upon shares of stock qualifying under paragraph (3), seventy per  
8 cent of the amount received by any corporation as dividends:

9 (1) Upon the shares of stock of another corporation, if at  
10 the date of payment of the dividend at least ninety-  
11 five per cent of the other corporation's capital stock  
12 is owned by one or more corporations doing business in  
13 this State and if the other corporation is subjected  
14 to an income tax in another jurisdiction (but  
15 subsection to federal tax does not constitute  
16 subsection to income tax in another jurisdiction);

17 (2) Upon the shares of stock of a bank or insurance  
18 company organized and doing business under the laws of  
19 the State;

20 (3) Upon the shares of stock of another corporation, if at  
21 least fifteen per cent of the latter corporation's  
22 business, for the taxable year of the latter



1 corporation preceding the payment of the dividend, has  
2 been attributed to this State.

3 However, except for national bank dividends, the deductions  
4 under this subsection are not allowed when they would not have  
5 been allowed under section 243 of the Internal Revenue Code, as  
6 amended by Public Law 85-866, by reason of subsections (b) and  
7 (c) of section 246 of the Internal Revenue Code. For the  
8 purposes of this subsection fifteen per cent of a corporation's  
9 business shall be deemed to have been attributed to this State  
10 if fifteen per cent or more of the entire gross income of the  
11 corporation as defined in this chapter (which for the purposes  
12 of this subsection shall be computed without regard to source in  
13 the State and shall include income not taxable by reason of the  
14 fact that it is from property not owned in the State or from a  
15 trade or business not carried on in the State in whole or in  
16 part), under section 235-5 and the other provisions of this  
17 chapter, shall have been attributed to the State and subjected  
18 to assessment of the taxable income therefrom (including the  
19 determination of the resulting net loss, if any).

20 (d) (1) For taxable years ending before January 1, 1967,  
21 the net operating loss deductions allowed as  
22 carrybacks and carryovers by the Internal Revenue Code





1 shall not be allowed. In lieu thereof the net  
2 operating loss deduction shall consist of the excess  
3 of the deductions allowed by this chapter over the  
4 gross income, computed with the modifications  
5 specified in paragraphs (1) to (4) of section 172(d)  
6 of the Internal Revenue Code, and with the further  
7 modification stated in paragraph (3) hereof; and shall  
8 be allowed as a deduction in computing the taxable  
9 income of the taxpayer for the succeeding taxable  
10 year;

11 (2) (A) With respect to net operating loss deductions  
12 resulting from net operating losses for taxable  
13 years ending after December 31, 1966, the net  
14 operating loss deduction provisions of the  
15 Internal Revenue Code shall apply; provided that  
16 there shall be no net operating loss deduction  
17 carried back to any taxable year ending prior to  
18 January 1, 1967;

19 (B) In the case of a taxable year beginning in 1966  
20 and ending in 1967, the entire amount of all net  
21 operating loss deductions carried back to the  
22 taxable year shall be limited to that portion of



1 taxable income for such taxable year which the  
2 number of days in 1967 bears to the total days in  
3 the taxable year ending in 1967; and

4 (C) The computation of any net operating loss  
5 deduction for a taxable year covered by this  
6 subsection shall require the further  
7 modifications stated in paragraphs (3), (4), and  
8 (5) of this subsection;

9 (3) In computing the net operating loss deduction allowed  
10 by this subsection, there shall be included in gross  
11 income the amount of interest which is excluded from  
12 gross income by subsection (a), decreased by the  
13 amount of interest paid or accrued which is disallowed  
14 as a deduction by subsection (e). In determining the  
15 amount of the net operating loss deduction under this  
16 subsection of any corporation, there shall be  
17 disregarded the net operating loss of such corporation  
18 for any taxable year for which the corporation is an  
19 electing small business corporation;

20 (4) No net operating loss carryback or carryover shall be  
21 allowed by this chapter if not allowed under section  
22 172 of the Internal Revenue Code;



1           (5) The election to relinquish the entire carryback period  
2           with respect to a net operating loss allowed under  
3           section 172(b)(3)(C) of the Internal Revenue Code  
4           shall be operative for the purposes of this chapter;  
5           provided that no taxpayer shall make such an election  
6           as to a net operating loss of a business where such  
7           net operating loss occurred in the taxpayer's business  
8           prior to the taxpayer entering business in this State;  
9           and

10          (6) The five-year carryback period for net operating  
11          losses for any taxable year ending during 2001 and  
12          2002 in section 172(b)(1)(H) of the Internal Revenue  
13          Code shall not be operative for purposes of this  
14          chapter.

15          (e) There shall be disallowed as a deduction the amount of  
16          interest paid or accrued within the taxable year on indebtedness  
17          incurred or continued, (1) to purchase or carry bonds the  
18          interest upon which is excluded from gross income by subsection  
19          (a); or (2) to purchase or carry property owned without the  
20          State, or to carry on trade or business without the State, if  
21          the taxpayer is a person taxable only upon income from sources  
22          in the State.



1           (f) Losses of property as the result of tidal wave,  
2 hurricane, earthquake, or volcanic eruption, or as a result of  
3 flood waters overflowing the banks or walls of a river or  
4 stream, or from any other natural disaster, to the extent of the  
5 amount deductible, under this chapter, not compensated for by  
6 insurance or otherwise, may be deducted in the taxable year in  
7 which sustained, or at the option of the taxpayer may be  
8 deducted in equal installments over a period of five years, the  
9 first such year to be the calendar year or fiscal year of the  
10 taxpayer in which such loss occurred.

11           (g) In computing taxable income there shall be allowed as  
12 a deduction:

13           (1) Political contributions by any taxpayer not in excess  
14 of \$250 in any year; provided that such contributions  
15 are made to a central or county committee of a  
16 political party whose candidates shall have qualified  
17 by law to be voted for at the immediately previous  
18 general election; or

19           (2) Political contributions by any individual taxpayer in  
20 an aggregate amount not to exceed \$1,000 in any year;  
21 provided that such contributions are made to  
22 candidates as defined in section 11-191, who have



1           agreed to abide by the campaign expenditure limits as  
 2           set forth in section 11-209; and provided further that  
 3           not more than \$250 of an individual's total  
 4           contribution to any single candidate shall be  
 5           deductible for purposes of this section.

6           (h) The following annual deductions from gross income  
 7           shall be allowed for contributions to a qualified tuition plan  
 8           established pursuant to Section 529 of the Internal Revenue

9           Code:

- 10           (1) Up to \$5,000 for individual taxpayers;
- 11           (2) Up to \$5,000 for married couples filing separate  
 12           returns; provided that each spouse may claim a  
 13           deduction up to \$5,000; and
- 14           (3) Up to \$10,000 for married couples filing joint  
 15           returns, individuals filing as the head of households,  
 16           or individuals filing as surviving spouses.

17           If the amount of the deduction exceeds the taxpayer's taxable  
 18           income for the taxable year the contribution is made, the excess  
 19           deduction may be used as a deduction against the taxpayer's  
 20           taxable income in subsequent tax years until the excess  
 21           deduction is exhausted."

22           SECTION 3. New statutory material is underscored.



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1 SECTION 4. This Act shall take effect upon its approval  
2 and shall apply to taxable years beginning after December 31,  
3 2007; provided that amendments made to section 235-7, Hawaii  
4 Revised Statutes, by section 2 of this Act, shall not be  
5 repealed when that section is reenacted on January 1, 2013, by  
6 section 3 of Act 166, Session Laws of Hawaii 2007.

7

INTRODUCED BY:

  


JAN 22 2008



**Report Title:**

529 College Savings Plan; Tax Deduction

**Description:**

Provides an annual deduction of \$5,000 per individual or \$10,000 for a married couple filing jointly against their taxable income for contributions made to a section 529 college savings plan.

