


# HOUSE OF REPRESENTATIVES

AMENDMENT TO: Senate Bill No. 148, Senate Draft 2, House Draft 1

OFFERED BY: Representative Lynn Finnegan 


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SECTION 1. Senate Bill No. 148, Senate Draft 2, House Draft 1, is amended by deleting its contents and replacing it with the following language, to read as follows:

"SECTION 1. The legislature finds that article VII, section 6, of the constitution of the state of Hawaii requires the legislature to provide a tax refund or tax credit when certain factors are met. The legislature finds that these factors have been met and that the legislature is constitutionally required to provide a tax credit or tax refund.

The purpose of this Act is to provide for an income tax credit of \$100 multiplied by the number of the taxpayer's dependents to every resident individual taxpayer of the State with an adjusted gross income, as defined by the Internal

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Revenue Code, below a certain amount, and an income tax credit of \$1 multiplied by the number of the taxpayer's dependents to every resident individual taxpayer of the State with an adjusted gross income, as determined by the Internal Revenue Code, above a certain amount, to satisfy the constitutionally mandated requirements.

SECTION 2. (a) There shall be paid, as early as December 1, 2007, or as soon thereafter as reasonably practicable, to each resident individual taxpayer who files an individual income tax return for the taxable year 2005, and who is not claimed or is not otherwise eligible to be claimed as a dependent by another taxpayer for federal or Hawaii state individual income tax purposes, a general income tax credit of \$100, with the following filing status and federal adjusted gross income:

<u>Filing status</u>	<u>Federal adjusted gross income</u>
Married Filing Jointly	\$100,000 or less
Head of Household	\$75,000 or less
Single, Married Filing Separately	\$50,000 or less

There shall be allowed to each resident individual taxpayer who files an individual income tax return for the taxable year 2005, with federal adjusted gross income in excess of the limits described above, and who is not claimed or is not otherwise eligible to be claimed as a dependent by another taxpayer for

federal or Hawaii state individual income tax purposes, a general income tax refund of \$1.

Each resident individual taxpayer shall be paid the general income tax credit. In addition, each taxpayer shall be paid an amount equal to the general income tax credit multiplied by each dependent claimed on the taxpayer's 2005 net income tax return; provided that a husband and wife that filed a joint return shall only be entitled to be paid an amount not to exceed the computed refund amount based upon the number of dependents that the husband or wife would have been entitled to claim had the husband or wife filed separately.

Each person to whom the general income tax credit is paid shall have been a resident of the State, as defined in section 235-1, Hawaii Revised Statutes, for at least nine months regardless of whether the qualified resident was physically in the State for nine months.

The general income tax credit shall not be paid to:

- (1) Any person who has been convicted of a felony and who has been committed to prison and has been physically confined for the full taxable year;
- (2) Any person who would otherwise be eligible to be claimed as a dependent but who has been committed to a youth correctional facility and has resided at the facility for the full taxable year; or

(3) Any misdemeanant who has been committed to jail and has been physically confined for the full taxable year.

(b) The tax credit paid to a resident taxpayer pursuant to this Act shall not be included in the resident taxpayer's gross income.

(c) This section implements the provisions of article VII, section 6, of the constitution of the State of Hawaii, enacted by the 1978 constitutional convention, which reads as follows:

**"DISPOSITION OF EXCESS REVENUES**

**Section 6.** Whenever the state general fund balance at the close of each of two successive fiscal years exceeds five percent of general fund revenues for each of the two fiscal years, the legislature in the next regular session shall provide for a tax refund or tax credit to the taxpayers of the State, as provided by law."

SECTION 3. This Act shall take effect upon its approval."