
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Chapter 235, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending section 235-4.5 to read:

4 "**§235-4.5 Taxation of trusts, beneficiaries; credit.** (a)

5 There shall be excluded from gross income any intangible income,
6 such as dividends and interest, earned by a trust sited in this
7 [~~State~~] state to the extent that, during the taxable year of the
8 trust, the beneficial interest in the trust shall be held by a
9 beneficiary or beneficiaries residing outside this [~~State~~]
10 state. This exclusion shall not apply to income received from
11 real property held in a land trust formed under chapter 558.

12 (b) If a trust sited in this [~~State~~] state owns one
13 hundred per cent of the stock of a foreign corporation which
14 does not engage in an active trade or business but acts solely
15 as a holding company receiving intangible income, such as
16 dividends and interest, the intangible income of the foreign
17 corporation shall be excluded from gross income for Hawaii



1 income tax purposes but only to the extent that the income of
2 the trust beneficiaries is excluded from taxation under
3 subsection (a). As used in this section, foreign corporation
4 means a corporation not created or organized in the United
5 States or under the laws of the United States, Hawaii, or any
6 other state.

7 (c) Any resident beneficiary of a trust with a situs in
8 another state may claim a credit for income taxes paid by the
9 trust to the other state on any income received which is
10 attributable to assets other than intangibles.

11 (d) This section shall be repealed on December 31, 2008."

12 2. By amending section 235-9.5 to read:

13 **"§235-9.5 Stock options from qualified high technology**
14 **businesses excluded from taxation.** (a) Notwithstanding any law
15 to the contrary, all income earned and proceeds derived from
16 stock options or stock, including stock issued through the
17 exercise of stock options or warrants, from a qualified high
18 technology business or from a holding company of a qualified
19 high technology business by an employee, officer, or director of
20 the qualified high technology business, or investor who
21 qualifies for the credit under section 235-110.9, that would
22 otherwise be taxed as ordinary income or as capital gains to



1 those persons shall be excluded from taxation under this
2 chapter.

3 Similar provisions shall apply to options to acquire equity
4 interests and to equity interests themselves with regard to
5 entities other than corporations.

6 (b) For the purposes of this section:

7 "Holding company of a qualified high technology business"
8 means any business entity that possesses:

- 9 (1) At least eighty per cent of the total voting power of
10 the stock or other interest; and
11 (2) At least eighty per cent of the total value of the
12 stock or other interest; in the qualified high
13 technology business.

14 "Income earned and proceeds derived from stock options or
15 stock" includes income from:

- 16 (1) Dividends from stock or stock received through the
17 exercise of stock options or warrants;
18 (2) The receipt or the exercise of stock options or
19 warrants; or
20 (3) The sale of stock options or stock, including stock
21 issued through the exercise of stock options or
22 warrants.



1 "Qualified high technology business" means the same as
2 defined in section 235-7.3.

3 (c) This section shall be repealed on December 31, 2008."

4 3. By amending section 235-12.5 to read:

5 "**§235-12.5 Renewable energy technologies; income tax**
6 **credit.** (a) When the requirements of subsection (c) are met,
7 each individual or corporate resident taxpayer that files an
8 individual or corporate net income tax return for a taxable year
9 may claim a tax credit under this section against the Hawaii
10 state individual or corporate net income tax. The tax credit
11 may be claimed for every eligible renewable energy technology
12 system that is installed and placed in service by a taxpayer
13 during the taxable year. This credit shall be available for
14 systems installed and placed in service after June 30, 2003.
15 The tax credit may be claimed as follows:

16 (1) Solar thermal energy systems for:

17 (A) Single-family residential property: thirty-five
18 per cent of the actual cost or \$2,250, whichever
19 is less;

20 (B) Multi-family residential property: thirty-five
21 per cent of the actual cost or \$350 per unit,
22 whichever is less; and



1 (C) Commercial property: thirty-five per cent of the
2 actual cost or \$250,000, whichever is less;

3 (2) Wind-powered energy systems for:

4 (A) Single-family residential property: twenty per
5 cent of the actual cost or \$1,500, whichever is
6 less;

7 (B) Multi-family residential property: twenty per
8 cent of the actual cost or \$200 per unit,
9 whichever is less; and

10 (C) Commercial property: twenty per cent of the
11 actual cost or \$500,000, whichever is less; and

12 (3) Photovoltaic energy systems for:

13 (A) Single-family residential property: thirty-five
14 per cent of the actual cost or \$5,000, whichever
15 is less;

16 (B) Multi-family residential property: thirty-five
17 per cent of the actual cost or \$350 per unit,
18 whichever is less; and

19 (C) Commercial property: thirty-five per cent of the
20 actual cost or \$500,000, whichever is less;

21 provided that multiple owners of a single system shall be
22 entitled to a single tax credit; and provided further that the



1 tax credit shall be apportioned between the owners in proportion
2 to their contribution to the cost of the system.

3 In the case of a partnership, S corporation, estate, or
4 trust, the tax credit allowable is for every eligible renewable
5 energy technology system that is installed and placed in service
6 by the entity. The cost upon which the tax credit is computed
7 shall be determined at the entity level. Distribution and share
8 of credit shall be determined pursuant to section 235-110.7(a).

9 (b) For the purposes of this section:

10 "Actual cost" means costs related to the renewable energy
11 technology systems under subsection (a), including accessories
12 and installation, but not including the cost of consumer
13 incentive premiums unrelated to the operation of the system or
14 offered with the sale of the system and costs for which another
15 credit is claimed under this chapter.

16 "Renewable energy technology system" means a new system
17 that captures and converts a renewable source of energy, such as
18 wind, heat (solar thermal), or light (photovoltaic) from the sun
19 into:

- 20 (1) A usable source of thermal or mechanical energy;
- 21 (2) Electricity; or
- 22 (3) Fuel.



1 "Solar or wind energy system" means any identifiable
2 facility, equipment, apparatus, or the like that converts
3 insolation or wind energy to useful thermal or electrical energy
4 for heating, cooling, or reducing the use of other types of
5 energy that are dependent upon fossil fuel for their generation.

6 (c) For taxable years beginning after December 31, 2005,
7 the dollar amount of any utility rebate shall be deducted from
8 the cost of the qualifying system and its installation before
9 applying the state tax credit.

10 (d) The director of taxation shall prepare any forms that
11 may be necessary to claim a tax credit under this section,
12 including forms identifying the technology type of each tax
13 credit claimed under this section, whether for solar thermal,
14 photovoltaic from the sun, or wind. The director may also
15 require the taxpayer to furnish reasonable information to
16 ascertain the validity of the claim for credit made under this
17 section and may adopt rules necessary to effectuate the purposes
18 of this section pursuant to chapter 91.

19 (e) If the tax credit under this section exceeds the
20 taxpayer's income tax liability, the excess of the credit over
21 liability may be used as a credit against the taxpayer's income
22 tax liability in subsequent years until exhausted. All claims



1 for the tax credit under this section, including amended claims,
2 shall be filed on or before the end of the twelfth month
3 following the close of the taxable year for which the credit may
4 be claimed. Failure to comply with this subsection shall
5 constitute a waiver of the right to claim the credit.

6 (f) By or before December, 2005, to the extent feasible,
7 using existing resources to assist the energy-efficiency policy
8 review and evaluation, the department shall assist with data
9 collection on the following:

10 (1) The number of renewable energy technology systems that
11 have qualified for a tax credit during the past year
12 by:

13 (A) Technology type (solar thermal, photovoltaic from
14 the sun, and wind); and

15 (B) Taxpayer type (corporate and individual); and

16 (2) The total cost of the tax credit to the State during
17 the past year by:

18 (A) Technology type; and

19 (B) Taxpayer type.

20 (g) This section shall be repealed on December 31, 2008."

21 4. By amending section 235-15 to read:



1 " [f] §235-15 [f] Tax credits to promote the purchase of
2 child passenger restraint systems. (a) Any taxpayer who files
3 an individual income tax return for a taxable year may claim an
4 income tax credit under this section against the Hawaii state
5 individual net income tax.

6 (b) The tax credit shall be \$25; provided that the
7 taxpayer purchases one or more new child passenger restraint
8 systems in the tax year for which the credit is properly
9 claimed; and provided that such restraint system can be shown to
10 be in substantial conformity with specifications for such
11 restraint systems set forth by the federal motor vehicle safety
12 standards which were in effect at the time of such purchase.

13 (c) If the tax credit claimed by the taxpayer under this
14 section exceeds the amount of the income tax payments due from
15 the taxpayer, the excess of credit over payments due shall be
16 refunded to the taxpayer; provided that the tax credit properly
17 claimed by a taxpayer who has no income tax liability shall be
18 paid to the taxpayer; and provided that no refunds or payments
19 on account of the tax credit allowed by this section shall be
20 made for amounts less than \$1.

21 (d) The director of taxation shall prepare such forms as
22 may be necessary to claim a credit under this section, may



1 require proof of the claim for the tax credit, and may adopt
2 rules pursuant to chapter 91.

3 (e) All of the provisions relating to assessments and
4 refunds under this chapter and under section 231-23(c)(1) shall
5 apply to the tax credit under this section.

6 (f) Claims for the tax credit under this section,
7 including any amended claims, shall be filed on or before the
8 end of the twelfth month following the taxable year for which
9 the credit may be claimed.

10 (g) This section shall be repealed on December 31, 2008."

11 5. By amending section 235-17 to read:

12 **"§235-17 Motion picture, digital media, and film**
13 **production income tax credit.** (a) Any law to the contrary
14 notwithstanding, there shall be allowed to each taxpayer subject
15 to the taxes imposed by this chapter, an income tax credit which
16 shall be deductible from the taxpayer's net income tax
17 liability, if any, imposed by this chapter for the taxable year
18 in which the credit is properly claimed. The amount of the
19 credit shall be:

20 (1) Fifteen per cent of the qualified production costs
21 incurred by a qualified production in any county of



1 the State with a population of over seven hundred
2 thousand; or

3 (2) Twenty per cent of the qualified production costs
4 incurred by a qualified production in any county of
5 the State with a population of seven hundred thousand
6 or less.

7 A qualified production occurring in more than one county may
8 prorate its expenditures based upon the amounts spent in each
9 county, if the population bases differ enough to change the
10 percentage of tax credit.

11 In the case of a partnership, S corporation, estate, or
12 trust, the tax credit allowable is for qualified production
13 costs incurred by the entity for the taxable year. The cost
14 upon which the tax credit is computed shall be determined at the
15 entity level. Distribution and share of credit shall be
16 determined by rule.

17 If a deduction is taken under section 179 (with respect to
18 election to expense depreciable business assets) of the Internal
19 Revenue Code of 1986, as amended, no tax credit shall be allowed
20 for those costs for which the deduction is taken.



1 The basis for eligible property for depreciation of
2 accelerated cost recovery system purposes for state income taxes
3 shall be reduced by the amount of credit allowable and claimed.

4 (b) The credit allowed under this section shall be claimed
5 against the net income tax liability for the taxable year. For
6 the purposes of this section, "net income tax liability" means
7 net income tax liability reduced by all other credits allowed
8 under this chapter.

9 (c) If the tax credit under this section exceeds the
10 taxpayer's income tax liability, the excess of credits over
11 liability shall be refunded to the taxpayer; provided that no
12 refunds or payment on account of the tax credits allowed by this
13 section shall be made for amounts less than \$1. All claims,
14 including any amended claims, for tax credits under this section
15 shall be filed on or before the end of the twelfth month
16 following the close of the taxable year for which the credit may
17 be claimed. Failure to comply with the foregoing provision
18 shall constitute a waiver of the right to claim the credit.

19 (d) To qualify for this tax credit, a production shall:

20 (1) Meet the definition of a qualified production
21 specified in subsection (1);



- 1 (2) Have qualified production costs totaling at least
- 2 \$200,000;
- 3 (3) Provide the State, at a minimum, a shared-card, end-
- 4 title screen credit, where applicable;
- 5 (4) Provide evidence of reasonable efforts to hire local
- 6 talent and crew; and
- 7 (5) Provide evidence of financial or in-kind contributions
- 8 or educational or workforce development efforts, in
- 9 partnership with related local industry labor
- 10 organizations, educational institutions, or both,
- 11 toward the furtherance of the local film and
- 12 television and digital media industries.
- 13 (e) On or after July 1, 2006, no qualified production cost
- 14 that has been financed by investments for which a credit was
- 15 claimed by any taxpayer pursuant to section 235-110.9 is
- 16 eligible for credits under this section.
- 17 (f) To receive the tax credit, the taxpayer shall first
- 18 prequalify the production for the credit by registering with the
- 19 department of business, economic development, and tourism during
- 20 the development or preproduction stage. Failure to comply with
- 21 this provision may constitute a waiver of the right to claim the
- 22 credit.



1 (g) The director of taxation shall prepare forms as may be
2 necessary to claim a credit under this section. The director
3 may also require the taxpayer to furnish information to
4 ascertain the validity of the claim for credit made under this
5 section and may adopt rules necessary to effectuate the purposes
6 of this section pursuant to chapter 91.

7 (h) Every taxpayer claiming a tax credit under this
8 section for a qualified production shall, no later than ninety
9 days following the end of each taxable year in which qualified
10 production costs were expended, submit a written, sworn
11 statement to the department of business, economic development,
12 and tourism, identifying:

- 13 (1) All qualified production costs as provided by
14 subsection (a), if any, incurred in the previous
15 taxable year;
- 16 (2) The amount of tax credits claimed pursuant to this
17 section, if any, in the previous taxable year; and
- 18 (3) The number of total hires versus the number of local
19 hires by category (i.e., department) and by county.

20 (i) The department of business, economic development, and
21 tourism shall:



- 1 (1) Maintain records of the names of the taxpayers and
2 qualified productions thereof claiming the tax credits
3 under subsection (a);
- 4 (2) Obtain and total the aggregate amounts of all
5 qualified production costs per qualified production
6 and per qualified production per taxable year; and
- 7 (3) Provide a letter to the director of taxation
8 specifying the amount of the tax credit per qualified
9 production for each taxable year that a tax credit is
10 claimed and the cumulative amount of the tax credit
11 for all years claimed.

12 Upon each determination required under this subsection, the
13 department of business, economic development, and tourism shall
14 issue a letter to the taxpayer, regarding the qualified
15 production, specifying the qualified production costs and the
16 tax credit amount qualified for in each taxable year a tax
17 credit is claimed. The taxpayer for each qualified production
18 shall file the letter with the taxpayer's tax return for the
19 qualified production to the department of taxation.

20 Notwithstanding the authority of the department of business,
21 economic development, and tourism under this section, the



1 director of taxation may audit and adjust the tax credit amount
2 to conform to the information filed by the taxpayer.

3 (j) Total tax credits claimed per qualified production
4 shall not exceed \$8,000,000.

5 (k) Qualified productions shall comply with subsections
6 (d), (e), (f), and (h).

7 (l) For the purposes of this section:

8 "Commercial":

9 (1) Means an advertising message that is filmed using
10 film, videotape, or digital media, for dissemination
11 via television broadcast or theatrical distribution;

12 (2) Includes a series of advertising messages if all parts
13 are produced at the same time over the course of six
14 consecutive weeks; and

15 (3) Does not include an advertising message with
16 Internet-only distribution.

17 "Digital media" means production methods and platforms
18 directly related to the creation of cinematic imagery and
19 content, specifically using digital means, including but not
20 limited to digital cameras, digital sound equipment, and
21 computers, to be delivered via film, videotape, interactive game



1 platform, or other digital distribution media (excluding
2 Internet-only distribution).

3 "Post production" means production activities and services
4 conducted after principal photography is completed, including
5 but not limited to editing, film and video transfers,
6 duplication, transcoding, dubbing, subtitling, credits, closed
7 captioning, audio production, special effects (visual and
8 sound), graphics, and animation.

9 "Production" means a series of activities that are directly
10 related to the creation of visual and cinematic imagery to be
11 delivered via film, videotape, or digital media and to be sold,
12 distributed, or displayed as entertainment or the advertisement
13 of products for mass public consumption, including but not
14 limited to scripting, casting, set design and construction,
15 transportation, videography, photography, sound recording,
16 interactive game design, and post production.

17 "Qualified production":

18 (1) Means a production, with expenditures in the [~~State,~~]
19 state, for the total or partial production of a
20 feature-length motion picture, short film, made-for-
21 television movie, commercial, music video, interactive
22 game, television series pilot, single season (up to



1 twenty-two episodes) of a television series regularly
2 filmed in the State (if the number of episodes per
3 single season exceeds twenty-two, additional episodes
4 for the same season shall constitute a separate
5 qualified production), television special, single
6 television episode that is not part of a television
7 series regularly filmed or based in the [~~State,~~
8 state, national magazine show, or national talk show.

9 For the purposes of subsections (d) and (j), each of
10 the aforementioned qualified production categories
11 shall constitute separate, individual qualified
12 productions; and

- 13 (2) Does not include: daily news; public affairs programs;
14 non-national magazine or talk shows; televised
15 sporting events or activities; productions that
16 solicit funds; productions produced primarily for
17 industrial, corporate, institutional, or other private
18 purposes; and productions that include any material or
19 performance prohibited by chapter 712.

20 "Qualified production costs" means the costs incurred by a
21 qualified production within the State that are subject to the
22 general excise tax under chapter 237 or income tax under this



1 chapter and that have not been financed by any investments for
2 which a credit was or will be claimed pursuant to section
3 235-110.9. Qualified production costs include but are not
4 limited to:

- 5 (1) Costs incurred during preproduction such as location
6 scouting and related services;
- 7 (2) Costs of set construction and operations, purchases or
8 rentals of wardrobe, props, accessories, food, office
9 supplies, transportation, equipment, and related
10 services;
- 11 (3) Wages or salaries of cast, crew, and musicians;
- 12 (4) Costs of photography, sound synchronization, lighting,
13 and related services;
- 14 (5) Costs of editing, visual effects, music, other post-
15 production, and related services;
- 16 (6) Rentals and fees for use of local facilities and
17 locations;
- 18 (7) Rentals of vehicles and lodging for cast and crew;
- 19 (8) Airfare for flights to or from Hawaii, and interisland
20 flights;
- 21 (9) Insurance and bonding;



1 (10) Shipping of equipment and supplies to or from Hawaii,
2 and interisland shipments; and

3 (11) Other direct production costs specified by the
4 department in consultation with the department of
5 business, economic development, and tourism.

6 (m) This section shall be repealed on December 31, 2008."

7 6. By amending section 235-18 to read:

8 " ~~[+]~~ §235-18 ~~[+]~~ **Deposit beverage container deposit**

9 **exemption.** This chapter shall not apply to amounts received as
10 a deposit beverage container deposit collected under part VIII
11 of chapter 342G. This section shall be repealed on December 31,
12 2008."

13 7. By amending section 235-110.2 to read:

14 "§235-110.2 **Credit for school repair and maintenance.** (a)

15 There shall be allowed to each taxpayer licensed under chapter
16 444, 460J, or 464, who is subject to the tax imposed by this
17 chapter, and does not owe the State delinquent taxes, penalties,
18 or interest, a credit for contributions of in-kind services for
19 the repair and maintenance of public schools provided by the
20 licensed taxpayer in Hawaii. The credit shall be deductible
21 from the taxpayer's net income tax liability, if any, imposed by



1 this chapter for the taxable year in which the credit is
2 properly claimed.

3 (b) The amount of the credit determined under this section
4 for the taxable year shall be equal to ten per cent of the value
5 of contributions of in-kind services to the Hawaii school repair
6 and maintenance fund for that taxable year; provided that the
7 aggregate value of the contributions of in-kind services claimed
8 by a taxpayer shall not exceed \$40,000.

9 (c) For purposes of this section:

10 "Public schools" has the same meaning as defined in section
11 302A-101.

12 "Value of contributions of in-kind services" means the fair
13 market value of uncompensated services or labor as determined
14 and certified by the department of accounting and general
15 services.

16 (d) The credit allowed under this section shall be claimed
17 against net income tax liability for the taxable year. A tax
18 credit under this section which exceeds the taxpayer's income
19 tax liability may be used as a credit against the taxpayer's
20 income tax liability in subsequent years until exhausted.

21 (e) All claims for tax credits under this section,
22 including any amended claims, shall be filed on or before the



1 end of the twelfth month following the close of the taxable year
2 for which the credits may be claimed. Failure to comply with
3 the foregoing provision shall constitute a waiver of the right
4 to claim the credit.

5 (f) The department of education shall maintain records of
6 the names of taxpayers eligible for the credit and the total
7 value of in-kind services contributed for the repair and
8 maintenance of public schools for the taxable year. All
9 contributions shall be verified by the department of education.
10 The department of education shall total all contributions that
11 the department of education certifies. Upon each determination,
12 the department of education shall issue a certificate to the
13 taxpayer certifying:

- 14 (1) The amount of the contribution;
- 15 (2) That the taxpayer is licensed under chapter 444, 460J,
16 or 464; and
- 17 (3) That the taxpayer has obtained a current and valid
18 certificate signed by the director of taxation,
19 showing that the taxpayer does not owe the State any
20 delinquent taxes, penalties, or interest.

21 The taxpayer shall file the certificate from the department
22 of education with the taxpayer's tax return with the department



1 of taxation. When the total amount of certified contributions
2 reaches \$2,500,000, the department of education shall
3 immediately discontinue certifying contributions and notify the
4 department of taxation. In no instance shall the total amount
5 of certified contributions exceed \$2,500,000 for each taxable
6 year.

7 (g) The State shall provide not more than \$250,000 in tax
8 credits for contributions of in-kind services in Hawaii for the
9 repair and maintenance of public schools.

10 (h) The director of taxation shall prepare any forms that
11 may be necessary to allow a credit to be claimed under this
12 section.

13 (i) This section shall be repealed on December 31, 2008."

14 8. By amending section 235-110.3 to read:

15 "**§235-110.3 Ethanol facility tax credit.** (a) Each year
16 during the credit period, there shall be allowed to each
17 taxpayer subject to the taxes imposed by this chapter, an
18 ethanol facility tax credit that shall be applied to the
19 taxpayer's net income tax liability, if any, imposed by this
20 chapter for the taxable year in which the credit is properly
21 claimed.



1 For each qualified ethanol production facility, the annual
2 dollar amount of the ethanol facility tax credit during the
3 eight-year period shall be equal to thirty per cent of its
4 nameplate capacity if the nameplate capacity is greater than
5 five hundred thousand but less than fifteen million gallons. A
6 taxpayer may claim this credit for each qualifying ethanol
7 facility; provided that:

- 8 (1) The claim for this credit by any taxpayer of a
9 qualifying ethanol production facility shall not
10 exceed one hundred per cent of the total of all
11 investments made by the taxpayer in the qualifying
12 ethanol production facility during the credit period;
- 13 (2) The qualifying ethanol production facility operated at
14 a level of production of at least seventy-five per
15 cent of its nameplate capacity on an annualized basis;
- 16 (3) The qualifying ethanol production facility is in
17 production on or before January 1, 2012; and
- 18 (4) No taxpayer that claims the credit under this section
19 shall claim any other tax credit under this chapter
20 for the same taxable year.
- 21 (b) As used in this section:



1 "Credit period" means a maximum period of eight years
2 beginning from the first taxable year in which the qualifying
3 ethanol production facility begins production even if actual
4 production is not at seventy-five per cent of nameplate
5 capacity.

6 "Investment" means a nonrefundable capital expenditure
7 related to the development and construction of any qualifying
8 ethanol production facility, including processing equipment,
9 waste treatment systems, pipelines, and liquid storage tanks at
10 the facility or remote locations, including expansions or
11 modifications. Capital expenditures shall be those direct and
12 certain indirect costs determined in accordance with section
13 263A of the Internal Revenue Code, relating to uniform
14 capitalization costs, but shall not include expenses for
15 compensation paid to officers of the taxpayer, pension and other
16 related costs, rent for land, the costs of repairing and
17 maintaining the equipment or facilities, training of operating
18 personnel, utility costs during construction, property taxes,
19 costs relating to negotiation of commercial agreements not
20 related to development or construction, or service costs that
21 can be identified specifically with a service department or
22 function or that directly benefit or are incurred by reason of a



1 service department or function. For the purposes of determining
2 a capital expenditure under this section, the provisions of
3 section 263A of the Internal Revenue Code shall apply as it read
4 on March 1, 2004. For purposes of this section, investment
5 excludes land costs and includes any investment for which the
6 taxpayer is at risk, as that term is used in section 465 of the
7 Internal Revenue Code (with respect to deductions limited to
8 amount at risk).

9 "Nameplate capacity" means the qualifying ethanol
10 production facility's production design capacity, in gallons of
11 motor fuel grade ethanol per year.

12 "Net income tax liability" means net income tax liability
13 reduced by all other credits allowed under this chapter.

14 "Qualifying ethanol production" means ethanol produced from
15 renewable, organic feedstocks, or waste materials, including
16 municipal solid waste. All qualifying production shall be
17 fermented, distilled, gasified, or produced by physical chemical
18 conversion methods such as reformation and catalytic conversion
19 and dehydrated at the facility.

20 "Qualifying ethanol production facility" or "facility"
21 means a facility located in Hawaii which produces motor fuel



1 grade ethanol meeting the minimum specifications by the American
2 Society of Testing and Materials standard D-4806, as amended.

3 (c) In the case of a taxable year in which the cumulative
4 claims for the credit by the taxpayer of a qualifying ethanol
5 production facility exceeds the cumulative investment made in
6 the qualifying ethanol production facility by the taxpayer, only
7 that portion that does not exceed the cumulative investment
8 shall be claimed and allowed.

9 (d) The department of business, economic development, and
10 tourism shall:

11 (1) Maintain records of the total amount of investment
12 made by each taxpayer in a facility;

13 (2) Verify the amount of the qualifying investment;

14 (3) Total all qualifying and cumulative investments that
15 the department of business, economic development, and
16 tourism certifies; and

17 (4) Certify the total amount of the tax credit for each
18 taxable year and the cumulative amount of the tax
19 credit during the credit period.

20 Upon each determination, the department of business,
21 economic development, and tourism shall issue a certificate to
22 the taxpayer verifying the qualifying investment amounts, the



1 credit amount certified for each taxable year, and the
2 cumulative amount of the tax credit during the credit period.
3 The taxpayer shall file the certificate with the taxpayer's tax
4 return with the department of taxation. Notwithstanding the
5 department of business, economic development, and tourism's
6 certification authority under this section, the director of
7 taxation may audit and adjust certification to conform to the
8 facts.

9 If in any year, the annual amount of certified credits
10 reaches \$12,000,000 in the aggregate, the department of
11 business, economic development, and tourism shall immediately
12 discontinue certifying credits and notify the department of
13 taxation. In no instance shall the total amount of certified
14 credits exceed \$12,000,000 per year. Notwithstanding any other
15 law to the contrary, this information shall be available for
16 public inspection and dissemination under chapter 92F.

17 (e) If the credit under this section exceeds the
18 taxpayer's income tax liability, the excess of credit over
19 liability shall be refunded to the taxpayer; provided that no
20 refunds or payments on account of the tax credit allowed by this
21 section shall be made for amounts less than \$1. All claims for
22 a credit under this section must be properly filed on or before



1 the end of the twelfth month following the close of the taxable
2 year for which the credit may be claimed. Failure to comply
3 with the foregoing provision shall constitute a waiver of the
4 right to claim the credit.

5 (f) If a qualifying ethanol production facility or an
6 interest therein is acquired by a taxpayer prior to the
7 expiration of the credit period, the credit allowable under
8 subsection (a) for any period after such acquisition shall be
9 equal to the credit that would have been allowable under
10 subsection (a) to the prior taxpayer had the taxpayer not
11 disposed of the interest. If an interest is disposed of during
12 any year for which the credit is allowable under subsection (a),
13 the credit shall be allowable between the parties on the basis
14 of the number of days during the year the interest was held by
15 each taxpayer. In no case shall the credit allowed under
16 subsection (a) be allowed after the expiration of the credit
17 period.

18 (g) Once the total nameplate capacities of qualifying
19 ethanol production facilities built within the [~~State~~] state
20 reaches or exceeds a level of forty million gallons per year,
21 credits under this section shall not be allowed for new ethanol
22 production facilities. If a new facility's production capacity



1 would cause the statewide ethanol production capacity to exceed
2 forty million gallons per year, only the ethanol production
3 capacity that does not exceed the statewide forty million gallon
4 per year level shall be eligible for the credit.

5 (h) Prior to construction of any new qualifying ethanol
6 production facility, the taxpayer shall provide written notice
7 of the taxpayer's intention to begin construction of a
8 qualifying ethanol production facility. The information shall
9 be provided to the department of taxation and the department of
10 business, economic development, and tourism on forms provided by
11 the department of business, economic development, and tourism,
12 and shall include information on the taxpayer, facility
13 location, facility production capacity, anticipated production
14 start date, and the taxpayer's contact information.

15 Notwithstanding any other law to the contrary, this information
16 shall be available for public inspection and dissemination under
17 chapter 92F.

18 (i) The taxpayer shall provide written notice to the
19 director of taxation and the director of business, economic
20 development, and tourism within thirty days following the start
21 of production. The notice shall include the production start
22 date and expected ethanol fuel production for the next twenty-



1 four months. Notwithstanding any other law to the contrary,
2 this information shall be available for public inspection and
3 dissemination under chapter 92F.

4 (j) If a qualifying ethanol production facility fails to
5 achieve an average annual production of at least seventy-five
6 per cent of its nameplate capacity for two consecutive years,
7 the stated capacity of that facility may be revised by the
8 director of business, economic development, and tourism to
9 reflect actual production for the purposes of determining
10 statewide production capacity under subsection (g) and allowable
11 credits for that facility under subsection (a). Notwithstanding
12 any other law to the contrary, this information shall be
13 available for public inspection and dissemination under chapter
14 92F.

15 (k) Each calendar year during the credit period, the
16 taxpayer shall provide information to the director of business,
17 economic development, and tourism on the number of gallons of
18 ethanol produced and sold during the previous calendar year, how
19 much was sold in Hawaii versus overseas, feedstocks used for
20 ethanol production, the number of employees of the facility, and
21 the projected number of gallons of ethanol production for the
22 succeeding year.



1 (1) In the case of a partnership, S corporation, estate,
2 or trust, the tax credit allowable is for every qualifying
3 ethanol production facility. The cost upon which the tax credit
4 is computed shall be determined at the entity level.

5 Distribution and share of credit shall be determined pursuant to
6 section 235-110.7(a).

7 (m) Following each year in which a credit under this
8 section has been claimed, the director of business, economic
9 development, and tourism shall submit a written report to the
10 governor and legislature regarding the production and sale of
11 ethanol. The report shall include:

12 (1) The number, location, and nameplate capacities of
13 qualifying ethanol production facilities in the
14 [~~State,~~] state;

15 (2) The total number of gallons of ethanol produced and
16 sold during the previous year; and

17 (3) The projected number of gallons of ethanol production
18 for the succeeding year.

19 (n) The director of taxation shall prepare forms that may
20 be necessary to claim a credit under this section.

21 Notwithstanding the department of business, economic
22 development, and tourism's certification authority under this



1 section, the director may audit and adjust certification to
2 conform to the facts. The director may also require the
3 taxpayer to furnish information to ascertain the validity of the
4 claim for credit made under this section and may adopt rules
5 necessary to effectuate the purposes of this section pursuant to
6 chapter 91.

7 9. By amending section 235-110.46 to read:

8 "[+] §235-110.46 [+] **Attractions and educational facilities**
9 **tax credit; Ko Olina Resort and Marina; Makaha Resort.** (a)

10 There shall be allowed to each qualified taxpayer subject to the
11 taxes imposed by this chapter or chapter 237, 237D, 238, 239,
12 241, or 431, a tax credit [+]that[+] may be claimed for taxable
13 years beginning after December 31, 2004, for qualified costs in
14 the development of facilities for attractions and educational
15 purposes at Ko Olina Resort and Marina and at Makaha Resort.

16 The tax credit shall be deductible from the taxpayer's net
17 income tax liability, if any, imposed by this chapter and, at
18 the election of the taxpayer, from the tax liability imposed by
19 chapters 237, 237D, 238, 239, 241, and 431.

20 (b) The tax credit earned shall be equal to the qualified
21 costs incurred from June 1, 2003, through [~~May 31, 2009,~~]
22 December 31, 2008, up to a maximum of \$75,000,000 of credits in



1 the aggregate for all qualified taxpayers for all years;
2 provided that notwithstanding the amount of tax credits earned
3 in any year, a maximum of \$7,500,000 of tax credits in the
4 aggregate for all qualified taxpayers may be used in any one
5 taxable year. The credits over \$7,500,000 shall be used as
6 provided in subsection (d). In the case of a partnership,
7 limited liability company, S corporation, estate, trust, or
8 association of apartment owners, the tax credit allowable is for
9 qualified costs incurred by the entity. The costs upon which
10 the tax credit is computed shall be determined at the entity
11 level.

- 12 (c) To qualify for the tax credit, a taxpayer shall:
- 13 (1) Have expended qualified costs on and be developing a
14 world-class aquarium and marine science and mammal
15 research facility at Ko Olina Resort and Marina; and
- 16 (2) Dedicate one-half of the net operating income of the
17 world-class aquarium to the State, beginning on the
18 first day of the seventeenth year following the year
19 in which the attractions and educational facilities
20 credit was first taken; or
- 21 (3) Acquire or own the Makaha Resort, and lease or sell a
22 portion of the Makaha Resort for use as training and



1 educational facilities for a period of not less than
2 six years to a taxpayer meeting the requirements of
3 subsection (c)(1).

4 (d) If the tax credit under this section exceeds
5 \$7,500,000 in the aggregate for all qualified taxpayers for any
6 taxable year or exceeds the taxpayer's tax liability under this
7 chapter or chapters 237, 237D, 238, 239, 241, and 431 for any
8 year for which the credit is taken, the excess of the tax credit
9 may be used as a credit against the taxpayer's tax liability for
10 the taxes set forth in this section in subsequent years until
11 exhausted; provided that the taxpayer may continue to claim the
12 credit provided in this section if the qualified costs are
13 incurred before June 1, 2009, subject to the monetary ceilings
14 in subsection (b).

15 (e) Every claim, including amended claims, for a tax
16 credit under this section shall be filed on or before the end of
17 the twelfth month following the close of the taxable year for
18 which the credit may be claimed. Failure to comply with the
19 foregoing provision shall constitute a waiver of the right to
20 claim the credit.

21 (f) If, at any time during the six-year period in which
22 tax credits are earned under this section, the costs incurred no



1 longer meet the definition of qualified costs, the credits
2 claimed under this section shall be recaptured. The recapture
3 shall be equal to one hundred per cent of the total tax credits
4 claimed under this section for the preceding taxable year;
5 provided that the amount of the credits recaptured shall apply
6 only to those costs that no longer meet the definition of
7 qualified costs. The amount of the recaptured tax credits
8 determined under this subsection shall be added to the
9 taxpayer's tax liability for the taxable year in which the
10 recapture occurs under this subsection.

11 (g) If any credit is claimed under this section, then no
12 taxpayer shall claim a credit under any chapter identified in
13 this section for the same qualified costs for which a credit is
14 claimed under this section.

15 (h) The director of taxation shall prepare any forms that
16 may be necessary to claim a credit under this section. The
17 director may also require the taxpayer to furnish information to
18 ascertain the validity of the claims for credits made under this
19 section and may adopt rules necessary to effectuate the purposes
20 of this section pursuant to chapter 91.

21 Every qualified taxpayer, no later than March 31 of each
22 year in which qualified costs were expended in the previous



1 taxable year, shall submit a written, certified statement to the
2 director of business, economic development, and tourism, in the
3 form specified by the director of business, economic
4 development, and tourism, identifying:

5 (1) Qualified costs, if any, expended in the previous
6 taxable year;

7 (2) The amount of tax credits claimed pursuant to this
8 section, if any, in the previous taxable year; and

9 (3) The tax liability under this chapter and chapters 237,
10 237D, 238, 239, 241, and 431 against which the tax
11 credits are claimed.

12 Any other law to the contrary notwithstanding, a statement
13 submitted under this subsection shall be a public document.

14 (i) The department of business, economic development, and
15 tourism shall maintain records of the names of taxpayers
16 eligible for the credits and the total amount of qualified costs
17 incurred from June 1, 2003, through [~~May 31, 2009.~~] December 31,
18 2008. The department of business, economic development, and
19 tourism shall verify all qualified costs and, upon each
20 determination, shall issue a certificate to the taxpayer
21 certifying:

22 (1) The amount of the qualified costs; and



1 (2) The amount of tax credit that the taxpayer is allowed
2 to use for the taxable year.

3 The department of business, economic development, and
4 tourism shall certify no more than \$7,500,000 in credits in the
5 aggregate for all taxpayers for each taxable year; provided that
6 the department may verify qualified costs of no more than
7 \$75,000,000 from June 1, 2003, through [~~May 31, 2009.~~] December
8 31, 2008. The taxpayer shall file the certificate with the
9 taxpayer's return with the department of taxation.

10 (j) As used in this section:

11 "Ko Olina Resort and Marina" means the six hundred forty-
12 two acres reclassified to urban district by Decision and Order
13 entered on September 12, 1985, in Docket A83-562, by the land
14 use commission.

15 "Makaha Resort" means the three hundred thirty-two acre
16 property identified as tax map keys (1) 8-04-002 parcels 51, 52,
17 53, 54, 55, and 67 and (1) 8-04-029-142.

18 "Qualified costs" means any costs for plans, design, and
19 construction, costs for equipment that is permanently affixed to
20 a building or structure, and acquisition of facilities for
21 educational purposes, up to a total of \$75,000,000 in the



1 aggregate, incurred after May 31, 2003, and before [~~June 1,~~
2 ~~2009,~~] January 1, 2009, at either or both of:

3 (1) Ko Olina Resort and Marina for the development of
4 facilities for attractions and educational purposes,
5 and for infrastructure within the Ko Olina Resort and
6 Marina that is directly related to those facilities,
7 including a world-class aquarium, marine science and
8 mammal research facilities, international sports
9 training complex, a travel industry management intern
10 campus, infrastructure for the transfer of ocean
11 waters to the aquarium or marine mammal facilities, or
12 both, seawater air conditioning, and other educational
13 facilities developed or operated in cooperation with
14 the University of Hawaii or other educational
15 institutions; or

16 (2) Makaha Resort for the development of a training and
17 educational facility within a working resort and
18 hotel;

19 provided that "qualified costs" shall not include land
20 acquisition costs.

21 "Qualified taxpayer" means a person who fulfills the
22 requirements of subsection (c).



1 (k) This section shall be repealed on December 31, 2008."

2 10. By amending subsection (h) of section 235-110.51 to
3 read:

4 "(h) The tax credit allowed under this section shall not
5 be available for taxable years beginning after December 31,
6 [~~2010.~~] 2008."

7 (o) This section shall be repealed on December 31, 2008."

8 11. By amending section 235-110.6 to read:

9 "[~~+~~] **§235-110.6 [~~+~~]** **Fuel tax credit for commercial fishers.**

10 (a) Each principal operator of a commercial fishing vessel who
11 files an individual or corporate net income tax return for a
12 taxable year may claim an income tax credit under this section
13 against the Hawaii state individual or corporate net income tax.

14 (b) The tax credit shall be an amount equal to the fuel
15 taxes imposed under section 243-4(a) and paid by the principal
16 operator during the taxable year.

17 (c) The tax credit claimed under this section by the
18 principal operator shall be deductible from the principal
19 operator's individual or corporate income tax liability, if any,
20 for the tax year in which the credit is properly claimed;
21 provided that a husband and wife filing separate returns for a
22 taxable year for which a joint return could have been made by



1 them shall claim only the tax credit to which they would have
2 been entitled had a joint return been filed. If the tax credit
3 claimed by the principal operator under this section exceeds the
4 amount of the income tax payments due from the principal
5 operator, the excess of credit over payments due shall be
6 refunded to the principal operator; provided that the tax credit
7 properly claimed by a principal operator who has no income tax
8 liability shall be paid to the principal operator; and provided
9 further no refunds or payments on account of the tax credit
10 allowed by this section shall be made for amounts less than \$1.

11 (d) The director of taxation shall prepare such forms as
12 may be necessary to claim a credit under this section, may
13 require proof of the claim for the tax credit, and may adopt
14 rules pursuant to chapter 91.

15 (e) All of the provisions relating to assessments and
16 refunds under this chapter and under section 231-23(c)(1) shall
17 apply to the tax credit under this section.

18 (f) Claims for the tax credit under this section,
19 including any amended claims thereof, shall be filed on or
20 before the end of the twelfth month following the taxable year
21 for which the credit may be claimed.

22 (g) As used in this section:



1 (1) "Commercial fishing vessel" means any water vessel
2 which is used to catch or process fish or transport
3 fish loaded on the high seas.

4 (2) "Principal operator" means any individual or corporate
5 resident taxpayer who derives at least fifty-one per
6 cent of the taxpayer's gross annual income from
7 commercial fishing operations.

8 (h) This section shall be repealed on December 31, 2008."

9 12. By amending section 235-110.7 to read:

10 **"§235-110.7 Capital goods excise tax credit.** (a) There
11 shall be allowed to each taxpayer subject to the tax imposed by
12 this chapter a capital goods excise tax credit which shall be
13 deductible from the taxpayer's net income tax liability, if any,
14 imposed by this chapter for the taxable year in which the credit
15 is properly claimed.

16 The amount of the tax credit shall be determined by the
17 application of the following rates against the cost of the
18 eligible depreciable tangible personal property used by the
19 taxpayer in a trade or business and placed in service within
20 Hawaii after December 31, 1987. For calendar years beginning
21 after: December 31, 1987, the applicable rate shall be three
22 per cent; December 31, 1988, and thereafter, the applicable rate



1 shall be four per cent, except that for the period January 1,
2 1993, through December 31, 2002, and for eligible depreciable
3 tangible personal property used in a trade or business that is
4 purchased in a county in which the county general excise and use
5 tax surcharge is in effect and placed in service in any county
6 the applicable rate shall be four and one-half per cent. For
7 taxpayers with fiscal taxable years, the applicable rate shall
8 be the rate for the calendar year in which the eligible
9 depreciable tangible personal property used in the trade or
10 business is placed in service within Hawaii.

11 In the case of a partnership, S corporation, estate, or
12 trust, the tax credit allowable is for eligible depreciable
13 tangible personal property which is placed in service by the
14 entity. The cost upon which the tax credit is computed shall be
15 determined at the entity level. Distribution and share of
16 credit shall be determined by rules.

17 In the case of eligible depreciable tangible personal
18 property for which a credit for sales or use taxes paid to
19 another state is allowable under section 238-3(i), the amount of
20 the tax credit allowed under this section shall not exceed the
21 amount of use tax, and for the period January 1, 1993, through
22 December 31, 2002, the amount of the county general excise and



1 use tax surcharge, actually paid under chapter 238 relating to
2 such tangible personal property.

3 If a deduction is taken under section 179 (with respect to
4 election to expense certain depreciable business assets) of the
5 Internal Revenue Code of 1954, as amended, no tax credit shall
6 be allowed for that portion of the cost of property for which
7 the deduction was taken.

8 (b) If the tax credit is claimed by a taxpayer at the rate
9 of four and one-half per cent, and the tangible personal
10 property is purchased in a county in which the county general
11 excise and use tax surcharge is not in effect, there shall be
12 added to and become part of the tax liability of the taxpayer:

13 (1) The amount of the tax credit claimed under this
14 section multiplied by three; or

15 (2) Ten per cent of the income tax liability for the
16 taxable year for which the income tax return is being
17 filed,

18 whichever is greater.

19 If the capital goods excise tax credit allowed under
20 subsection (a) exceeds the taxpayer's net income tax liability,
21 the excess of credit over liability shall be refunded to the
22 taxpayer; provided that no refunds or payment on account of the



1 tax credit allowed by this section shall be made for amounts
2 less than \$1.

3 All claims for tax credits under this section, including
4 any amended claims, must be filed on or before the end of the
5 twelfth month following the close of the taxable year for which
6 the credits may be claimed. Failure to comply with the
7 foregoing provision shall constitute a waiver of the right to
8 claim the credit.

9 (c) Application for the capital goods excise tax credit
10 shall be upon forms provided by the department of taxation.

11 (d) Sections 47 (with respect to dispositions of section
12 38 property and the recapture percentages) of the Internal
13 Revenue Code of 1954, as amended, as of December 31, 1984, and
14 280F as operative for this chapter (with respect to limitation
15 on investment tax credit and depreciation for luxury
16 automobiles; limitation where certain property used for personal
17 purposes) of the Internal Revenue Code of 1954, as amended,
18 shall be operative for purposes of this section.

19 (e) As used in this section, the definition of section 38
20 property (with respect to investment in depreciable tangible
21 personal property) as defined by section 48(a)(1)(A), (a)(1)(B),
22 (a)(3), (a)(4), (a)(7), (a)(8), (a)(10)(A), (b), (c), (f), (l),



1 (m), and (s) of the Internal Revenue Code of 1954, as amended as
2 of December 31, 1984, is operative for the purposes of this
3 section only.

4 As used in this section:

5 "Cost" means (1) the actual invoice price of the tangible
6 personal property, or (2) the basis from which depreciation is
7 taken under section 167 (with respect to depreciation) or from
8 which a deduction may be taken under section 168 (with respect
9 to accelerated cost recovery system) of the Internal Revenue
10 Code of 1954, as amended, whichever is less.

11 "Eligible depreciable tangible personal property" is
12 section 38 property as defined by the operative provisions of
13 section 48 and having a depreciable life under section 167 or
14 for which a deduction may be taken under section 168 of the
15 federal Internal Revenue Code of 1954, as amended.

16 "Placed in service" means the earliest of the following
17 taxable years:

18 (1) The taxable year in which, under the:

19 (A) Taxpayer's depreciation practice, the period for
20 depreciation; or



1 (B) Accelerated cost recovery system, a claim for
2 recovery allowances; with respect to such
3 property begins; or

4 (2) The taxable year in which the property is placed in a
5 condition or state of readiness and availability for a
6 specifically assigned function.

7 "Purchase" means an acquisition of property.

8 "Tangible personal property" means tangible personal
9 property which is placed in service within Hawaii after December
10 31, 1987, and the purchase or importation of which resulted in a
11 transaction which was subject to the imposition and payment of
12 tax at the rate of four per cent, except that for the period
13 January 1, 1993, through December 31, 2002, and if the county
14 general excise and use tax surcharge is in effect the tax rate
15 shall be four and one-half per cent, under chapter 237 or 238.

16 "Tangible personal property" does not include tangible personal
17 property which is an integral part of a building or structure or
18 tangible personal property used in a foreign trade zone, as
19 defined under chapter 212.

20 (f) This section shall be repealed on December 31, 2008."

21 13. By amending section 235-110.8 to read:



1 "§235-110.8 Low-income housing tax credit. (a) Section
2 42 (with respect to low-income housing credit) of the Internal
3 Revenue Code shall be operative for the purposes of this chapter
4 as provided in this section.

5 (b) Each taxpayer subject to the tax imposed by this
6 chapter, who has filed [+]a[+] net income tax return for a
7 taxable year may claim a low-income housing tax credit against
8 the taxpayer's net income tax liability. The amount of the
9 credit shall be deductible from the taxpayer's net income tax
10 liability, if any, imposed by this chapter for the taxable year
11 in which the credit is properly claimed on a timely basis. A
12 credit under this section may be claimed whether or not the
13 taxpayer claims a federal low-income housing tax credit pursuant
14 to section 42 of the Internal Revenue Code.

15 (c) The low-income housing tax credit shall be fifty per
16 cent of the applicable percentage of the qualified basis of each
17 building located in Hawaii. The applicable percentage shall be
18 calculated as provided in section 42(b) of the Internal Revenue
19 Code.

20 (d) For the purposes of this section, the determination
21 of:



- 1 (1) Qualified basis and qualified low-income building
2 shall be made under section 42(c);
- 3 (2) Eligible basis shall be made under section 42(d);
- 4 (3) Qualified low-income housing project shall be made
5 under section 42(g);
- 6 (4) Recapture of credit shall be made under section 42(j),
7 except that the tax for the taxable year shall be
8 increased under section 42(j)(1) only with respect to
9 credits that were used to reduce state income taxes;
- 10 (5) Application of at-risk rules shall be made under
11 section 42(k);

12 of the Internal Revenue Code.

13 (e) As provided in section 42(e), rehabilitation
14 expenditures shall be treated as separate new building and their
15 treatment under this section shall be the same as in section
16 42(e). The definitions and special rules relating to credit
17 period in section 42(f) and the definitions and special rules in
18 section 42(i) shall be operative for the purposes of this
19 section.

20 (f) The state housing credit ceiling under section 42(h)
21 shall be zero for the calendar year immediately following the
22 expiration of the federal low-income housing tax credit program



1 and for any calendar year thereafter, except for the carryover
2 of any credit ceiling amount for certain projects in progress
3 which, at the time of the federal expiration, meet the
4 requirements of section 42.

5 (g) The credit allowed under this section shall be claimed
6 against net income tax liability for the taxable year. For the
7 purpose of deducting this tax credit, net income tax liability
8 means net income tax liability reduced by all other credits
9 allowed the taxpayer under this chapter.

10 A tax credit under this section which exceeds the
11 taxpayer's income tax liability may be used as a credit against
12 the taxpayer's income tax liability in subsequent years until
13 exhausted. All claims for a tax credit under this section must
14 be filed on or before the end of the twelfth month following the
15 close of the taxable year for which the credit may be claimed.
16 Failure to properly and timely claim the credit shall constitute
17 a waiver of the right to claim the credit. A taxpayer may claim
18 a credit under this section only if the building or project is a
19 qualified low-income housing building or a qualified low-income
20 housing project under section 42 of the Internal Revenue Code.



1 Section 469 (with respect to passive activity losses and
2 credits limited) of the Internal Revenue Code shall be applied
3 in claiming the credit under this section.

4 (h) The director of taxation may adopt any rules under
5 chapter 91 and forms necessary to carry out this section.

6 (i) This section shall be repealed on December 31, 2008."

7 14. By amending subsection (i) of section 235-110.9 to
8 read:

9 "(i) This section shall not apply to taxable years
10 beginning after December 31, [~~2010-~~] 2008."

11 15. By amending subsection (j) of section 235-110.91 to
12 read:

13 "(j) This section shall not apply to taxable years
14 beginning after December 31, [~~2010-~~] 2008."

15 16. By amending section 235-129 to read:

16 "**§235-129 Tax credits.** (a) For purposes of section 235-
17 55, each resident shareholder shall be considered to have paid a
18 tax imposed on the shareholder in an amount equal to the
19 shareholder's pro rata share of any net income tax paid by the S
20 corporation to a state which does not measure the income of S
21 corporation shareholders by the income of the S corporation.

22 For purposes of the preceding sentence, the term "net income



1 tax" means any tax imposed on or measured by a corporation's net
2 income.

3 (b) Each shareholder of an S corporation shall be allowed
4 a credit against the tax imposed by section 235-51 in an amount
5 equal to the shareholder's pro rata share of the tax credits
6 described in sections 209E-10, 235-12, 235-71(c), 235-55.91,
7 235-110.6, 235-110.7, and 235-110.8. With the exception of the
8 credit allowed by section 235-12, nonresident shareholders shall
9 be allowed the credits allowed to resident shareholders which
10 are earned by the S corporation in this [~~State-~~] state. The
11 credit allowed by section 235-12 shall be allowed to nonresident
12 shareholders to the extent the credit is earned by virtue of
13 property purchased and placed in service in this [~~State-~~] state.

14 (c) This section shall be repealed on December 31, 2008."

15 SECTION 2. Section 236D-4, Hawaii Revised Statutes, is
16 amended by amending subsection (c) to read as follows:

17 "(c) The transfer of the property of a nonresident is
18 exempt from the tax imposed by this section to the extent that
19 the property of residents is exempt from taxation under the laws
20 of the state in which the nonresident is domiciled, except that:

21 (1) Real property having an actual situs in this [~~State-~~]
22 state, whether or not held in a trust the corpus of



1 which is included in a decedent's gross estate for
2 federal estate tax purposes;

3 (2) A beneficial interest in a land trust which owns real
4 property located in the [~~State,~~] state; and

5 (3) Tangible personal property having an actual situs in
6 this [~~State,~~] state,

7 shall be subject to tax under this section.

8 This subsection shall be repealed on December 31, 2008."

9 SECTION 3. Chapter 237, Hawaii Revised Statutes, is
10 amended as follows:

11 1. By amending section 237-16.8 to read:

12 "[~~+~~] §237-16.8 [~~+~~] **Exemption of certain convention,**
13 **conference, and trade show fees.** In addition to any other
14 applicable exemption provided under this chapter, there shall be
15 exempted from the measure of taxes imposed by this chapter all
16 of the value or gross income derived by a fraternal benefit,
17 religious, charitable, scientific, educational, or other
18 nonprofit organization under section 501(c) of the Internal
19 Revenue Code of 1986, as amended, from fees for convention,
20 conference, or trade show exhibit or display spaces; provided
21 that the gross proceeds of sales by a vendor through the use of
22 exhibit or display space at a conference, convention, or trade



1 show shall be subject to the imposition of the general excise
2 tax under section 237-13. This section shall be repealed on
3 December 31, 2008."

4 2. By amending section 237-23 to read:

5 "**§237-23 Exemptions, persons exempt, applications for**
6 **exemption.** (a) This chapter shall not apply to the following
7 persons:

- 8 (1) Public service companies (as that term is defined in
9 section 239-2), with respect to the gross income,
10 either actual gross income or gross income estimated
11 and adjusted, which is included in the measure of the
12 tax imposed by chapter 239;
- 13 (2) Public utilities owned and operated by the State or
14 any county or other political subdivision thereof;
- 15 (3) Fraternal benefit societies, orders, or associations,
16 operating under the lodge system, or for the exclusive
17 benefit of the members of the fraternity itself,
18 operating under the lodge system, and providing for
19 the payment of death, sick, accident, prepaid legal
20 services, or other benefits to the members of such
21 societies, orders, or associations, and to their
22 dependents;



- 1 (4) Corporations, associations, trusts, or societies
2 organized and operated exclusively for religious,
3 charitable, scientific, or educational purposes, as
4 well as that of operating senior citizens housing
5 facilities qualifying for a loan under the laws of the
6 United States as authorized by section 202 of the
7 Housing Act of 1959, as amended, as well as that of
8 operating a prepaid legal services plan, as well as
9 that of operating or managing a homeless facility, or
10 any other program for the homeless authorized under
11 chapter 201G, part IV;
- 12 (5) Business leagues, chambers of commerce, boards of
13 trade, civic leagues, agricultural and horticultural
14 organizations, and organizations operated exclusively
15 for the benefit of the community and for the promotion
16 of social welfare which shall include the operation of
17 a prepaid legal service plan, and from which no profit
18 inures to the benefit of any private stockholder or
19 individual;
- 20 (6) Hospitals, infirmaries, and sanitararia;
- 21 (7) Cooperative associations incorporated under chapter
22 421 or Code section 521 cooperatives which fully meet



1 the requirements of section 421-23, except Code
2 section 521 cooperatives need not be organized in
3 Hawaii; provided that:

4 (A) The exemption shall apply only to the gross
5 income derived from activities which are pursuant
6 to purposes and powers authorized by chapter 421,
7 except those provisions pertaining to or
8 requiring corporate organization in Hawaii do not
9 apply to Code section 521 cooperatives;

10 (B) The exemption shall not relieve any person who
11 receives any proceeds of sale from the
12 association of the duty of returning and paying
13 the tax on the total gross proceeds of the sales
14 on account of which the payment was made, in the
15 same amount and at the same rate as would apply
16 thereto had the sales been made directly by the
17 person, and all such persons shall be so taxable;
18 and

19 (C) As used in this paragraph, "section 521
20 cooperatives" mean associations which qualify as
21 a cooperative under section 521 (with respect to



1 exemption of farmers' cooperatives from tax) of
2 the Internal Revenue Code of 1986, as amended;

3 (8) Persons affected with Hansen's disease and kokuas,
4 with respect to business within the county of Kalawao;

5 (9) Corporations, companies, associations, or trusts
6 organized for the establishment and conduct of
7 cemeteries no part of the net earnings of which inures
8 to the financial benefit of any private stockholder or
9 individual (provided that the exemption shall apply
10 only to the activities of such persons in the conduct
11 of cemeteries and not to any activity the primary
12 purpose of which is to produce income, even though the
13 income is to be used for or in the furtherance of the
14 exempt activities of such persons); and

15 (10) Nonprofit shippers associations operating under part
16 296 of the Civil Aeronautics Board Economic
17 Regulations.

18 (b) The exemptions enumerated in subsection (a)(3) to (6)
19 shall apply only:

20 (1) To those persons who shall have registered with the
21 department of taxation by filing a written application
22 for registration in such form as the department shall



1 prescribe, shall have paid the registration fee of
2 \$20, and shall have had the exemption allowed by the
3 department or by a court or tribunal of competent
4 jurisdiction upon appeal from any assessment resulting
5 from disallowance of the exemption by the department;

6 (2) To activities from which no profit inures to the
7 benefit of any private stockholder or individual,
8 except for death or other benefits to the members of
9 fraternal societies; and

10 (3) To the fraternal, religious, charitable, scientific,
11 educational, communal, or social welfare activities of
12 such persons, or to the activities of such hospitals,
13 infirmaries, and sanitarium as such, and not to any
14 activity the primary purpose of which is to produce
15 income even though the income is to be used for or in
16 furtherance of the exempt activities of such persons.

17 (c) To obtain allowance of an exemption:

18 (1) A person under subsection (a) (3) to (6), who has
19 received or applied for recognition of tax exempt
20 status under section 501(c) (3), (4), (6), or (8) of
21 the Internal Revenue Code of 1986, as amended, or who
22 is a subordinate person of a person who has received a



1 group exemption letter under section 501(c)(3), (4),
2 (6), or (8) of the Internal Revenue Code of 1986, as
3 amended, shall register with the department by filing
4 a statement attaching a copy of the exemption or
5 application for recognition of exempt status and any
6 particular facts that the department may require; and

7 (2) All other persons under subsection (a)(3) to (6) shall
8 file an application for exemption in the form of an
9 affidavit or affidavits setting forth in general all
10 facts affecting the right to the exemption and such
11 particular facts as the department may require, to
12 which shall be attached such records, papers, and
13 other information as the department may prescribe.

14 (d) For all persons, the statement registering the person
15 with the department or application for exemption shall be filed
16 on or before March 31 of the first year of registration or
17 within three months after the commencement of business. In the
18 event of allowance of the exemption, no further statement or
19 application therefor need be filed unless there is a material
20 change in the facts. In the event of disallowance of the
21 exemption, a license may be obtained upon payment of the
22 required fee as provided by section 237-9, less the \$20 already



1 paid under this section, which shall be credited thereon. In
2 the event the registrant has a license under this chapter, no
3 further fee shall be required for registration under this
4 section.

5 (e) The department for good cause may extend the time for
6 registration or the time for filing an application for
7 exemption.

8 (f) This section shall be repealed on December 31, 2008.

9 3. By amending section 237-23.5 to read:

10 **"§237-23.5 Related entities; common paymaster; certain**
11 **exempt transactions.** (a) This chapter shall not apply to
12 amounts received, charged, or attributable to services furnished
13 by one related entity to another related entity or to imputed or
14 stated interest attributable to loans, advances, or use of
15 capital between related entities.

16 As used in this subsection:

17 "Related entities" means:

18 (1) An affiliated group of corporations within the meaning
19 of section 1504 (with respect to affiliated group
20 defined) of the federal Internal Revenue Code of 1986,
21 as amended;

22 (2) A controlled group of corporations within the meaning



1 of section 1563 (with respect to definitions and
2 special rules) of the federal Internal Revenue Code of
3 1986, as amended;

4 (3) Those entities connected through ownership of at least
5 eighty per cent of the total value and at least eighty
6 per cent of the total voting power of each such entity
7 (or combination thereof), including partnerships,
8 associations, trusts, S corporations, nonprofit
9 corporations, limited liability partnerships, or
10 limited liability companies; and

11 (4) Any group or combination of the entities described in
12 paragraph (3) constituting a unitary business for
13 income tax purposes;

14 whether or not the entity is located within or without the State
15 or licensed under this chapter.

16 "Services" means legal and accounting services, the use of
17 computer software and hardware, information technology services,
18 database management, and those managerial and administrative
19 services performed by an employee, officer, partner, trustee,
20 sole proprietor, member, or manager in the person's capacity as
21 an employee, officer, partner, trustee, sole proprietor, member,



1 or manager of one of the related entities and shall include
2 overhead costs attributable to those services.

3 (b) This chapter shall not apply to amounts received by
4 common paymasters which are disbursed as remuneration to
5 employees of two or more related corporations where the common
6 paymaster is making such remunerations on behalf of such
7 corporations. Such amounts received or disbursed by the common
8 paymaster shall include payments of payroll taxes and employee
9 benefits which the common paymaster is making on behalf of
10 related corporations and which payments are related to the
11 employees being remunerated. The definitions of related
12 corporations, common paymaster, multiple common paymasters, and
13 concurrent employment contained in 26 Code of Federal
14 Regulations, section 31.3121(s)-1(b) are incorporated and made a
15 part of this subsection.

16 To the extent not covered by subsection (a), the exemption
17 allowed by this subsection shall not apply to the cost of
18 services, or reimbursements of such cost by one corporation to
19 another corporation, of an employee disbursing the amounts
20 exempted under this subsection. Each related corporation using
21 a common paymaster or multiple common paymaster shall keep
22 separate payroll records and other documentation required to



1 prove the existence of concurrent employment. Such records and
2 documents shall be available for inspection by the director of
3 taxation during normal business hours.

4 (c) This section shall be repealed on December 31, 2008.

5 4. By amending section 237-24 to read:

6 "**§237-24 Amounts not taxable.** This chapter shall not
7 apply to the following amounts:

8 (1) Amounts received under life insurance policies and
9 contracts paid by reason of the death of the insured;

10 (2) Amounts received (other than amounts paid by reason of
11 death of the insured) under life insurance, endowment,
12 or annuity contracts, either during the term or at
13 maturity or upon surrender of the contract;

14 (3) Amounts received under any accident insurance or
15 health insurance policy or contract or under workers'
16 compensation acts or employers' liability acts, as
17 compensation for personal injuries, death, or
18 sickness, including also the amount of any damages or
19 other compensation received, whether as a result of
20 action or by private agreement between the parties on
21 account of the personal injuries, death, or sickness;



- 1 (4) The value of all property of every kind and sort
- 2 acquired by gift, bequest, or devise, and the value of
- 3 all property acquired by descent or inheritance;
- 4 (5) Amounts received by any person as compensatory damages
- 5 for any tort injury to the person, or to the person's
- 6 character reputation, or received as compensatory
- 7 damages for any tort injury to or destruction of
- 8 property, whether as the result of action or by
- 9 private agreement between the parties (provided that
- 10 amounts received as punitive damages for tort injury
- 11 or breach of contract injury shall be included in
- 12 gross income);
- 13 (6) Amounts received as salaries or wages for services
- 14 rendered by an employee to an employer;
- 15 (7) Amounts received as alimony and other similar payments
- 16 and settlements;
- 17 (8) Amounts collected by distributors as fuel taxes on
- 18 "liquid fuel" imposed by chapter 243, and the amounts
- 19 collected by such distributors as a fuel tax imposed
- 20 by any Act of the Congress of the United States;
- 21 (9) Taxes on liquor imposed by chapter 244D on dealers
- 22 holding permits under that chapter;



- 1 (10) The amounts of taxes on cigarettes and tobacco
2 products imposed by chapter 245 on wholesalers or
3 dealers holding licenses under that chapter and
4 selling the products at wholesale;
- 5 (11) Federal excise taxes imposed on articles sold at
6 retail and collected from the purchasers thereof and
7 paid to the federal government by the retailer;
- 8 (12) The amounts of federal taxes under chapter 37 of the
9 Internal Revenue Code, or similar federal taxes,
10 imposed on sugar manufactured in the [~~State~~] state
11 paid by the manufacturer to the federal government;
- 12 (13) An amount up to, but not in excess of, \$2,000 a year
13 of gross income received by any blind, deaf, or
14 totally disabled person engaging, or continuing, in
15 any business, trade, activity, occupation, or calling
16 within the [~~State;~~] state; a corporation all of whose
17 outstanding shares are owned by an individual or
18 individuals who are blind, deaf, or totally disabled;
19 a general, limited, or limited liability partnership,
20 all of whose partners are blind, deaf, or totally
21 disabled; or a limited liability company, all of whose
22 members are blind, deaf, or totally disabled;



1 (14) Amounts received by a producer of sugarcane from the
2 manufacturer to whom the producer sells the sugarcane,
3 where:

4 (A) The producer is an independent cane farmer, so
5 classed by the Secretary of Agriculture under the
6 Sugar Act of 1948 (61 Stat. 922, Chapter 519) as
7 the Act may be amended or supplemented;

8 (B) The value or gross proceeds of sale of the sugar,
9 and other products manufactured from the
10 sugarcane, is included in the measure of the tax
11 levied on the manufacturer under section 237-
12 13(1) or (2);

13 (C) The producer's gross proceeds of sales are
14 dependent upon the actual value of the products
15 manufactured therefrom or the average value of
16 all similar products manufactured by the
17 manufacturer; and

18 (D) The producer's gross proceeds of sales are
19 reduced by reason of the tax on the value or sale
20 of the manufactured products;



- 1 (15) Money paid by the State or eleemosynary child-placing
2 organizations to foster parents for their care of
3 children in foster homes; and
- 4 (16) Amounts received by a cooperative housing corporation
5 from its shareholders in reimbursement of funds paid
6 by such corporation for lease rental, real property
7 taxes, and other expenses of operating and maintaining
8 the cooperative land and improvements; provided that
9 such a cooperative corporation is a corporation:
- 10 (A) Having one and only one class of stock
11 outstanding;
- 12 (B) Each of the stockholders of which is entitled
13 solely by reason of the stockholder's ownership
14 of stock in the corporation, to occupy for
15 dwelling purposes a house, or an apartment in a
16 building owned or leased by the corporation; and
- 17 (C) No stockholder of which is entitled (either
18 conditionally or unconditionally) to receive any
19 distribution not out of earnings and profits of
20 the corporation except in a complete or partial
21 liquidation of the corporation.

22 This section shall be repealed on December 31, 2008."



1 5. By amending section 237-24.3 to read:

2 "§237-24.3 Additional amounts not taxable. In addition to
3 the amounts not taxable under section 237-24, this chapter shall
4 not apply to:

5 (1) Amounts received from the loading, transportation, and
6 unloading of agricultural commodities shipped for a
7 producer or produce dealer on one island of this State
8 to a person, firm, or organization on another island
9 of this State. The terms "agricultural commodity",
10 "producer", and "produce dealer" shall be defined in
11 the same manner as they are defined in section 147-1;
12 provided that agricultural commodities need not have
13 been produced in the [~~State,~~] state;

14 (2) Amounts received from sales of:

15 (A) Intoxicating liquor as the term "liquor" is
16 defined in chapter 244D;

17 (B) Cigarettes and tobacco products as defined in
18 chapter 245; and

19 (C) Agricultural, meat, or fish products;

20 to any person or common carrier in interstate or
21 foreign commerce, or both, whether ocean-going or air,



1 for consumption out-of-state on the shipper's vessels
2 or airplanes;

3 (3) Amounts received by the manager or board of directors
4 of:

5 (A) An association of apartment owners of a
6 condominium property regime established in
7 accordance with chapter 514B; or

8 (B) A nonprofit homeowners or community association
9 incorporated in accordance with chapter 414D or
10 any predecessor thereto and existing pursuant to
11 covenants running with the land,

12 in reimbursement of sums paid for common expenses;

13 (4) Amounts received or accrued from:

14 (A) The loading or unloading of cargo from ships,
15 barges, vessels, or aircraft, whether or not the
16 ships, barges, vessels, or aircraft travel
17 between the State and other states or countries
18 or between the islands of the State;

19 (B) Tugboat services including pilotage fees
20 performed within the [~~State,~~] state, and the
21 towage of ships, barges, or vessels in and out of
22 state harbors, or from one pier to another; and



1 (C) The transportation of pilots or governmental
2 officials to ships, barges, or vessels offshore;
3 rigging gear; checking freight and similar
4 services; standby charges; and use of moorings
5 and running mooring lines;

6 (5) Amounts received by an employee benefit plan by way of
7 contributions, dividends, interest, and other income;
8 and amounts received by a nonprofit organization or
9 office, as payments for costs and expenses incurred
10 for the administration of an employee benefit plan;
11 provided that this exemption shall not apply to any
12 gross rental income or gross rental proceeds received
13 after June 30, 1994, as income from investments in
14 real property in this [~~State~~] state; and provided
15 further that gross rental income or gross rental
16 proceeds from investments in real property received by
17 an employee benefit plan after June 30, 1994, under
18 written contracts executed prior to July 1, 1994,
19 shall not be taxed until the contracts are
20 renegotiated, renewed, or extended, or until after
21 December 31, 1998, whichever is earlier. For the
22 purposes of this paragraph, "employee benefit plan"



1 means any plan as defined in section 1002(3) of title
2 29 of the United States Code, as amended;

3 (6) Amounts received for purchases made with United States
4 Department of Agriculture food coupons under the
5 federal food stamp program, and amounts received for
6 purchases made with United States Department of
7 Agriculture food vouchers under the Special
8 Supplemental Foods Program for Women, Infants and
9 Children;

10 (7) Amounts received by a hospital, infirmary, medical
11 clinic, health care facility, pharmacy, or a
12 practitioner licensed to administer the drug to an
13 individual for selling prescription drugs or
14 prosthetic devices to an individual; provided that
15 this paragraph shall not apply to any amounts received
16 for services provided in selling prescription drugs or
17 prosthetic devices. As used in this paragraph:

18 (A) "Prescription drugs" are those drugs defined
19 under section 328-1 and dispensed by filling or
20 refilling a written or oral prescription by a
21 practitioner licensed under law to administer the
22 drug and sold by a licensed pharmacist under



1 section 328-16 or practitioners licensed to
2 administer drugs; and

3 (B) "Prosthetic device" means any artificial device
4 or appliance, instrument, apparatus, or
5 contrivance, including their components, parts,
6 accessories, and replacements thereof, used to
7 replace a missing or surgically removed part of
8 the human body, which is prescribed by a licensed
9 practitioner of medicine, osteopathy, or podiatry
10 and which is sold by the practitioner or which is
11 dispensed and sold by a dealer of prosthetic
12 devices; provided that "prosthetic device" shall
13 not mean any auditory, ophthalmic, dental, or
14 ocular device or appliance, instrument,
15 apparatus, or contrivance;

16 (8) Taxes on transient accommodations imposed by chapter
17 237D and passed on and collected by operators holding
18 certificates of registration under that chapter;

19 (9) Amounts received as dues by an unincorporated
20 merchants association from its membership for
21 advertising media, promotional, and advertising costs
22 for the promotion of the association for the benefit

1 of its members as a whole and not for the benefit of
2 an individual member or group of members less than the
3 entire membership;

4 (10) Amounts received by a labor organization for real
5 property leased to:

6 (A) A labor organization; or

7 (B) A trust fund established by a labor organization
8 for the benefit of its members, families, and
9 dependents for medical or hospital care, pensions
10 on retirement or death of employees,
11 apprenticeship and training, and other membership
12 service programs.

13 As used in this paragraph, "labor organization" means
14 a labor organization exempt from federal income tax
15 under section 501(c)(5) of the Internal Revenue Code,
16 as amended;

17 (11) Amounts received from foreign diplomats and consular
18 officials who are holding cards issued or authorized
19 by the United States Department of State granting them
20 an exemption from state taxes; and

21 (12) Amounts received as rent for the rental or leasing of
22 aircraft or aircraft engines used by the lessees or



1 renters for interstate air transportation of
2 passengers and goods. For purposes of this paragraph,
3 payments made pursuant to a lease shall be considered
4 rent regardless of whether the lease is an operating
5 lease or a financing lease. The definition of
6 "interstate air transportation" is the same as in 49
7 U.S.C. 40102.

8 This section shall be repealed on December 31, 2008."

9 6. By amending section 237-24.5 to read:

10 "**§237-24.5 Additional exemptions.** (a) In addition to the
11 amounts exempt under section 237-24, this chapter shall not
12 apply to amounts received by:

13 (1) An exchange from:

14 (A) Transaction fees charged exchange members by the
15 exchange for:

16 (i) The sale or purchase of securities or
17 products, or both, bought or sold on an
18 exchange by exchange members for their own
19 account or an account for which they have
20 responsibility as an agent, broker, or
21 fiduciary;



- 1 (ii) Order book executions made for purposes of
- 2 effecting transactions; and
- 3 (iii) Trade processing performed by an exchange in
- 4 matching trades, keypunching, record
- 5 keeping, post cashiering, and notarization;
- 6 (B) Membership dues, fees, charges, assessments, and
- 7 fines from individuals or firms, including
- 8 charges for firm symbols (member identification),
- 9 application processing, registration, initiation,
- 10 membership transfers, floor or post privileges,
- 11 transaction time extensions, expediting
- 12 transactions, crossover trades (trading out of
- 13 assigned functions) and rule infractions;
- 14 (C) Service fees charged to members including fees
- 15 for communications, badges, forms, documents, and
- 16 reports;
- 17 (D) Listing fees and listing maintenance fees charged
- 18 to companies that wish to be listed and have
- 19 their securities or products traded on the
- 20 exchange; and
- 21 (E) Participation in the communication network
- 22 consortium operated collectively by United States



1 exchanges or other markets recognized by the
2 Securities and Exchange Commission, the
3 Commodities Futures Trading Commission, or
4 similar regulatory authorities outside the United
5 States that provides last sale and quote
6 securities information to subscribers or that
7 connects such markets or exchanges for purposes
8 of data transmission;

9 (2) Exchange members by reason of executing a securities
10 or product transaction on an exchange; provided that
11 this exemption shall apply only to amounts received by
12 exchange members from brokers or dealers registered
13 with the Securities and Exchange Commission, from
14 futures commission merchants, brokers, or associates
15 registered with the Commodities Futures Trading
16 Commission, or from similar individuals or firms
17 registered with similar regulatory authorities outside
18 the United States; and

19 (3) Exchange members as proceeds from the sale of their
20 exchange memberships.

21 (b) As used in this section:



1 "Exchange" means an exchange or board of trade as defined
2 in 15 United States Code section 78c(a)(1) or in 7 United States
3 Code section 7, respectively, which is subject to regulation by
4 the Securities and Exchange Commission or the Commodities
5 Futures Trading Commission or an organization subject to similar
6 regulation under the laws of a jurisdiction outside the United
7 States.

8 "Exchange member" means an individual or firm that is
9 qualified by an exchange as a member and pays membership dues to
10 an exchange [~~in order~~] to trade securities or products on an
11 exchange.

12 "Securities" means securities as defined in 15 United
13 States Code section 78c and "products" means contracts of sale
14 of commodities for future delivery, futures contracts, options,
15 calls, puts, and similar rights as defined in 7 United States
16 Code section 2, which securities or products are permitted to be
17 traded on an exchange.

18 (c) This section shall be repealed on December 31, 2008.

19 7. By amending section 237-24.7 to read:

20 "**§237-24.7 Additional amounts not taxable.** (a) In
21 addition to the amounts not taxable under section 237-24, this
22 chapter shall not apply to:



1 (1) Amounts received by the operator of a hotel from the
2 owner of the hotel in amounts equal to and which are
3 disbursed by the operator for employee wages,
4 salaries, payroll taxes, insurance premiums, and
5 benefits, including retirement, vacation, sick pay,
6 and health benefits. As used in this paragraph:

7 "Employee" means employees directly engaged in
8 the day-to-day operation of the hotel and employed by
9 the operator.

10 "Hotel" means an operation as defined in section
11 445-90.

12 "Operator" means any person who, pursuant to a
13 written contract with the owner of a hotel, operates
14 or manages the hotel for the owner.

15 "Owner" means the fee owner or lessee under a
16 recorded lease of a hotel;

17 (2) Amounts received by the operator of a county
18 transportation system operated under an operating
19 contract with a political subdivision, where the
20 political subdivision is the owner of the county
21 transportation system. As used in this paragraph:



1 "County transportation system" means a mass
2 transit system of motorized buses providing regularly
3 scheduled transportation within a county.

4 "Operating contract" or "contract" means a
5 contract to operate and manage a political
6 subdivision's county transportation system, which
7 provides that:

8 (A) The political subdivision shall exercise
9 substantial control over all aspects of the
10 operator's operation;

11 (B) The political subdivision controls the
12 development of transit policy, service
13 planning, routes, and fares; and

14 (C) The operator develops in advance a draft
15 budget in the same format as prescribed for
16 agencies of the political subdivision. The
17 budget must be subject to the same
18 constraints and controls regarding the
19 lawful expenditure of public funds as any
20 public sector agency, and deviations from
21 the budget must be subject to approval by



1 the appropriate political subdivision
2 officials involved in the budgetary process.

3 "Operator" means any person who, pursuant to an
4 operating contract with a political subdivision,
5 operates or manages a county transportation system.

6 "Owner" means a political subdivision that owns
7 or is the lessee of all the properties and facilities
8 of the county transportation system (including buses,
9 real estate, parking garages, fuel pumps, maintenance
10 equipment, office supplies, etc.), and that owns all
11 revenues derived therefrom;

12 (3) Surcharge taxes on rental motor vehicles imposed by
13 chapter 251 and passed on and collected by persons
14 holding certificates of registration under that
15 chapter;

16 (4) Amounts received by the operator of orchard properties
17 from the owner of the orchard property in amounts
18 equal to and which are disbursed by the operator for
19 employee wages, salaries, payroll taxes, insurance
20 premiums, and benefits, including retirement,
21 vacation, sick pay, and health benefits. As used in
22 this paragraph:



1 "Employee" means an employee directly engaged in
2 the day-to-day operations of the orchard properties
3 and employed by the operator.

4 "Operator" means a producer who, pursuant to a
5 written contract with the owner of the orchard
6 property, operates or manages the orchard property for
7 the owner where the property contains an area
8 sufficient to make the undertaking economically
9 feasible.

10 "Orchard property" means any real property that
11 is used to raise trees with a production life cycle of
12 fifteen years or more producing fruits or nuts having
13 a normal period of development from the initial
14 planting to the first commercially saleable harvest of
15 not less than three years.

16 "Owner" means a fee owner or lessee under a
17 recorded lease of orchard property;

18 (5) Taxes on nursing facility income imposed by chapter
19 346E and passed on and collected by operators of
20 nursing facilities;

21 (6) Amounts received under property and casualty insurance
22 policies for damage or loss of inventory used in the



1 conduct of a trade or business located within the
2 State or a portion thereof that is declared a natural
3 disaster area by the governor pursuant to section 209-
4 2;

5 (7) Amounts received as compensation by community
6 organizations, school booster clubs, and nonprofit
7 organizations under a contract with the chief election
8 officer for the provision and compensation of precinct
9 officials and other election-related personnel,
10 services, and activities, pursuant to section 11-5;

11 (8) Interest received by a person domiciled outside the
12 State from a trust company (as defined in section
13 412:8-101) acting as payment agent or trustee on
14 behalf of the issuer or payees of an interest bearing
15 instrument or obligation, if the interest would not
16 have been subject to tax under this chapter if paid
17 directly to the person domiciled outside the State
18 without the use of a paying agent or trustee; provided
19 that if the interest would otherwise be taxable under
20 this chapter if paid directly to the person domiciled
21 outside the State, it shall not be exempt solely



1 because of the use of a Hawaii trust company as a
2 paying agent or trustee;

3 (9) Amounts received by a management company from related
4 entities engaged in the business of selling interstate
5 or foreign common carrier telecommunications services
6 in amounts equal to and which are disbursed by the
7 management company for employee wages, salaries,
8 payroll taxes, insurance premiums, and benefits,
9 including retirement, vacation, sick pay, and health
10 benefits. As used in this paragraph:

11 "Employee" means employees directly engaged in
12 the day-to-day operation of related entities engaged
13 in the business of selling interstate or foreign
14 common carrier telecommunications services and
15 employed by the management company.

16 "Management company" means any person who,
17 pursuant to a written contract with a related entity
18 engaged in the business of selling interstate or
19 foreign common carrier telecommunications services,
20 provides managerial or operational services to that
21 entity.

22 "Related entities" means:



- 1 (A) An affiliated group of corporations within
2 the meaning of section 1504 (with respect to
3 affiliated group defined) of the federal
4 Internal Revenue Code of 1986, as amended;
- 5 (B) A controlled group of corporations within
6 the meaning of section 1563 (with respect to
7 definitions and special rules) of the
8 federal Internal Revenue Code of 1986, as
9 amended;
- 10 (C) Those entities connected through ownership
11 of at least eighty per cent of the total
12 value and at least eighty per cent of the
13 total voting power of each such entity (or
14 combination thereof), including
15 partnerships, associations, trusts, S
16 corporations, nonprofit corporations,
17 limited liability partnerships, or limited
18 liability companies; and
- 19 (D) Any group or combination of the entities
20 described in paragraph (C) constituting a
21 unitary business for income tax purposes;



1 whether or not the entity is located within or without
2 the State or licensed under this chapter; and

3 (10) Amounts received as grants under section 206M-15.

4 (b) This section shall be repealed on December 31, 2008."

5 8. By amending section 237-24.8 to read:

6 "~~§~~237-24.8~~§~~ Amounts not taxable for financial

7 institutions. (a) In addition to the amounts not taxable under
8 section 237-24, this chapter shall not apply to amounts received
9 by:

10 (1) Financial institutions from:

11 (A) Interest, discount, points, commitment fees, loan
12 fees, loan origination charges, and finance
13 charges which are part of the computed annual
14 percentage rate of interest and which are
15 contracted and received for the use of money;

16 (B) Leasing of personal property;

17 (C) Fees or charges relating to the administration of
18 deposits;

19 (D) Gains resulting from changes in foreign currency
20 exchange rates but not including commissions or
21 compensation derived from the purchase or sale of



1 foreign currency or numismatic currency whether
2 legal tender or not;

3 (E) The servicing and sale of loans contracted for
4 and received by the financial institution; and

5 (F) Interest received from the investment of deposits
6 received by the financial institution from
7 financial or debt instruments;

8 (2) Trust companies or trust departments of financial
9 institutions from:

10 (A) Trust agreements and retirement plans where the
11 trust companies or trust departments are acting
12 as fiduciaries;

13 (B) Custodial agreements; and

14 (C) Activities relating to the general servicing of
15 fiduciary/custodial accounts held by the trust
16 companies or trust departments; and

17 (3) Financial corporations acting as interbank brokers as
18 defined by chapter 241 from brokerage services.

19 (b) As used in this section:

20 "Activities relating to the general servicing of
21 fiduciary/custodial accounts" means those activities performed
22 by trust companies which are directly or indirectly performed



1 within the fiduciary/custodial relationship between the trust
2 company or trust department of a financial institution and its
3 client and which are not offered to any person outside of the
4 fiduciary/custodial relationship.

5 "Annual percentage rate" and "finance charge" have the same
6 meaning as defined in the federal Truth in Lending Act (15
7 U.S.C. sections 1605(a) to (c) and 1606).

8 "Deposit" means:

9 (1) Money or its equivalent received or held by a
10 financial institution in the usual course of business
11 and for which it has given or is obligated to give
12 credit to:

- 13 (A) A commercial (including public deposits),
14 checking, savings, time, or thrift account;
15 (B) A check or draft drawn against a deposit account
16 and certified by the financial institution;
17 (C) A letter of credit; or
18 (D) A traveler's check, on which the financial
19 institution is primarily liable;

20 (2) Trust funds received or held by a financial
21 institution, whether held in the trust department or



1 held or deposited in any other department of the
2 financial institution;

3 (3) Money received or held by a financial institution, or
4 the credit given for money or its equivalent received
5 or held by a financial institution in the usual course
6 of business for a special or specific purpose,
7 regardless of the legal relationship thereby
8 established, including, without being limited to,
9 escrow funds, funds held as security for an obligation
10 due the financial institution or others (including
11 funds held as dealers' reserves) or for securities
12 loaned by the financial institution, funds deposited
13 by a debtor to meet maturing obligations, funds
14 deposited as advance payment on subscriptions to
15 United States government securities, funds held for
16 distribution or purchase of securities, funds held to
17 meet the financial institution's acceptances or
18 letters of credit, and withheld taxes;

19 (4) Outstanding drafts, cashier's checks, money orders, or
20 other officer's checks issued in the usual course of
21 business for any purpose; or



1 (5) Money or its equivalent held as a credit balance by a
2 financial institution on behalf of its customer if the
3 financial institution is engaged in soliciting and
4 holding the balances in the regular course of its
5 business.

6 "Financial institution" means banks, building and loan
7 associations, development companies, financial corporations,
8 financial services loan companies, small business investment
9 companies, financial holding companies, mortgage loan companies,
10 and trust companies all as defined in chapter 241.

11 "Leasing of personal property" occurs if:

- 12 (1) The lease is to serve as the functional equivalent of
13 an extension of credit to the lessee of the property;
- 14 (2) The property to be leased is acquired specifically for
15 the leasing transaction under consideration, or was
16 acquired specifically for an earlier leasing
17 transaction;
- 18 (3) The lease is on a nonoperating basis, i.e., the
19 financial institution may not, directly or indirectly:
- 20 (A) Provide for the maintenance, repair, replacement,
21 or servicing of the leased property during the
22 lease term;



1 (B) Purchase parts and accessories in bulk or for an
2 individual property after the lessee has taken
3 delivery of the property; or

4 (C) Purchase insurance for the lessee;

5 (4) At the inception of the lease the effect of the
6 transaction will yield a return that will compensate
7 the lessor financial institution for not less than the
8 lessor's full investment in the property plus the
9 estimated total cost of financing the property over
10 the term of the lease, from:

11 (A) Rentals;

12 (B) Estimated tax benefits (capital goods excise tax
13 credit, net economic gain from tax deferral from
14 accelerated depreciation, and other tax benefits
15 with a substantially similar effect); and

16 (C) The estimated residual value of the property at
17 the expiration of the initial term of the lease;

18 (5) The maximum lease term during which the lessor
19 financial institution must recover the lessor's full
20 investment in the property, plus the estimated total
21 cost of financing the property, shall be forty years;

22 and



1 (6) At the expiration of the lease (including any renewals
2 or extensions with the same lessee), all interest in
3 the property shall be either liquidated or leased
4 again on a nonoperating basis as soon as practicable
5 (in no event later than two years from the expiration
6 of the lease), but in no case shall the lessor retain
7 any interest in the property beyond fifty years after
8 the lessor's acquisition of the property.

9 (c) This section shall be repealed on December 31, 2008."

10 9. By amending section 237-24.75 to read:

11 "[+] **§237-24.75** [+] **Additional exemptions.** In addition to
12 the amounts exempt under section 237-24, this chapter shall not
13 apply to amounts received as a beverage container deposit
14 collected under chapter 342G, part VIII. This section shall be
15 repealed on December 31, 2008."

16 10. By amending section 237-24.9 to read:

17 "**§237-24.9 Aircraft service and maintenance facility.** (a)
18 This chapter shall not apply to amounts received from the
19 servicing and maintenance of aircraft or from the construction
20 of an aircraft service and maintenance facility in the [~~State~~]
21 state.

22 (b) As used in this section:



1 "Aircraft" means any craft or artificial contrivance of
2 whatever description engaged in intrastate, interstate, or
3 international scheduled commercial use as defined in chapter
4 263, that operates with two or more jet engines.

5 "Aircraft service and maintenance" means all scheduled and
6 unscheduled tasks performed within an aircraft service and
7 maintenance facility for the inspection, modification,
8 maintenance, and repair of aircraft and related components
9 including engines, hydraulic and electrical systems, and all
10 other components which are an integral part of an aircraft.

11 "Aircraft service and maintenance facility" means a
12 facility for aircraft service and maintenance that is not less
13 than thirty thousand square feet in area, and which may include
14 ancillary space which is integral to the facility, such as parts
15 and inventory warehouse space, tool rooms, and related
16 administrative and employee space.

17 "Construction of an aircraft service and maintenance
18 facility" means all design, engineering, labor, and material
19 costs associated with the construction of facilities the
20 principle purpose of which is the provision of facilities for
21 aircraft service and maintenance.



1 "Maintenance" means the upkeep of aircraft engines,
2 hydraulic and electrical systems, and all other components which
3 are an integral part of an aircraft, but does not include
4 refueling, janitorial services or cleaning, restocking of
5 aircraft and passenger supplies, or loading or unloading of
6 cargo and passenger baggage.

7 (c) This section shall be repealed on December 31, 2008."

8 11. By amending section 237-25 to read:

9 "**§237-25 Exemptions of sales and gross proceeds of sales**
10 **to federal government, and credit unions.** (a) Any provision of
11 law to the contrary notwithstanding, there shall be exempted
12 from, and excluded from the measures of, the tax imposed by
13 chapter 237 all sales, and the gross proceeds of all sales, of:

14 (1) Intoxicating liquor, as defined in chapter 281,
15 hereafter sold by any person licensed under chapter
16 281 to the United States (including any agency or
17 instrumentality of the United States that is wholly
18 owned or otherwise so constituted as to be immune from
19 the levy of a tax under chapter 238 or 244D but not
20 including national banks), or to any organization to
21 which that sale is permitted by the proviso of "Class
22 3" of section 281-31, located on any Army, Navy, or



- 1 Air Force reservation, but the person making the sale
2 shall nevertheless, within the meaning of chapters
3 237, 244D, and 281 be deemed to be a licensed seller;
- 4 (2) Tobacco products and cigarettes, as defined in chapter
5 245, sold by any person licensed under the chapter to
6 the United States (including any agency or
7 instrumentality thereof that is wholly owned or
8 otherwise so constituted as to be immune from the levy
9 of a tax under chapter 238 or 245 but not including
10 national banks), but the person making the sale shall
11 nevertheless, within the meaning of chapters 237 and
12 245, be deemed to be a licensed seller;
- 13 (3) Other tangible personal property sold by any person
14 licensed under this chapter to the United States
15 (including any agency, instrumentality, or federal
16 credit union thereof but not including national
17 banks), and to any state-chartered credit union, but
18 the person making such sale shall nevertheless, within
19 the meaning of this chapter, be deemed a licensed
20 seller; and
- 21 (4) When the amount of property sold by a licensee turns
22 upon the amount of the property sold through a vending



1 machine or similar device to the customer using the
2 device, there shall not be deemed to have occurred any
3 sale covered by an exemption under paragraph (1), (2),
4 or (3).

5 (b) Nothing in this section shall be deemed to exempt any
6 sales to or by a federal cost-plus contractor, as defined in
7 chapter 237, or the gross proceeds thereof; with respect to all
8 such activities and transactions, taxes shall be levied,
9 returned, computed, and assessed the same as if this section had
10 not been enacted, and in the case of an election made under
11 sections 237-13(2)(F) and 237-13(3)(C)(ii), the tax shall be
12 computed the same as upon a sale to the state government.

13 (c) Nothing in this section shall be deemed to exempt any
14 person engaging or continuing in a service business or calling
15 from any part of the tax imposed upon the person for such
16 activity, and the person shall not be entitled to deduct any
17 amount for tangible personal property furnished in conjunction
18 therewith even though the person separately bills or otherwise
19 shows the amount of the gross income of the business derived
20 from the furnishing of the property.

21 (d) The exemption granted by this section shall apply to
22 the seller of products sold in the [~~State~~] state as provided in



1 subsection (a) in respect of the privilege of manufacturing or
2 producing, as well as the privilege of selling, and the value or
3 gross proceeds of sales of the products so sold shall be
4 excluded from the measure of the tax imposed by chapter 237 upon
5 the seller as a manufacturer or producer.

6 (e) This section shall be repealed on December 31, 2008."

7 12. By amending section 237-26 to read:

8 **"§237-26 Exemption of certain scientific contracts with**
9 **the United States.** (a) Any provision of law to the contrary
10 notwithstanding, there shall be exempted from the measure of the
11 taxes imposed by chapter 237, all of the gross proceeds derived
12 by a contractor or subcontractor arising from the performance of
13 any scientific work as defined in subsection (b), under a
14 contract or subcontract entered into with the United States
15 (including any agency or instrumentality thereof but not
16 including national banks), and all of the gross proceeds derived
17 from the sale of tangible personal property by a seller of such
18 tangible personal property to such contractor or subcontractor;
19 provided the exemption herein shall apply only to such tangible
20 personal property which is to be affixed to, or to become a
21 physical, integral part of the scientific facility, or which is



1 to be entirely consumed during the performance of the service
2 required by the contract or subcontract.

3 (b) For purposes of this section, "scientific work" is
4 work involving primarily the research and development for, or
5 the design, manufacture, instrumentation, installation,
6 maintenance, or operation of aerospace, agricultural,
7 astronomical, biomedical, electronic, geophysical,
8 oceanographic, test range, or other scientific facilities.
9 Maintenance or operation, for purposes of this section, shall
10 include housekeeping functions in providing certain
11 nonscientific logistic and support services.

12 (c) This section shall be repealed on December 31, 2008."

13 13. By amending section 237-27 to read:

14 "**§237-27 Exemption of certain petroleum refiners.** (a) As
15 used in this section:

16 (1) "Petroleum products" means petroleum, any distillate,
17 fraction, or derivative of petroleum, natural gas or
18 its components, gas manufactured from a petroleum
19 product, and any product derived from the gas or from
20 the manufacture thereof, such as benzene, xylene,
21 toluene, acetylene, tars, components of tars, and
22 ammonia.



1 (2) "Refiner" means any person who, in the [~~State,~~] state
2 engages in the business of refining petroleum products
3 and is taxable under this chapter, upon the value or
4 gross proceeds of sales of the petroleum products
5 resultant from the business. A person who is engaged
6 in business as a refiner and also in other business
7 shall be deemed a refiner only in respect of the
8 business that produces the products included in the
9 measure of the tax imposed by this chapter.

10 (3) "Refining" means:

11 (A) Any process performed by a refiner that includes
12 a change in the character or properties of a
13 petroleum product through the application of
14 heat, or

15 (B) The compounding by a refiner of a petroleum
16 product with a product that has been refined by
17 the refiner by the process stated in clause (A).

18 (b) There shall be excluded from the measure of the tax on
19 a refiner such part of the petroleum products resultant from the
20 refiner's business as is to be further refined by another
21 refiner, to the extent that the petroleum products resultant
22 from such further refining will be (or but for this subsection



1 would be) included in the measure of the tax on such other
2 refiner, and where petroleum products are to be used partly for
3 such refining and partly for other purposes, the proportion used
4 for each purpose shall be determined upon the basis of weight or
5 BTU content.

6 (c) This section shall be repealed on December 31, 2008."

7 14. By amending section 237-27.5 to read:

8 "**§237-27.5 Air pollution control facility.** (a) As used
9 in this section, "air pollution control facility" shall mean a
10 new identifiable treatment facility, equipment, device, or the
11 like, which is used to abate or control atmospheric pollution or
12 contamination by removing, reducing, or rendering less noxious
13 air contaminants emitted into the atmosphere from a point
14 immediately preceding the point of such removal, reduction, or
15 rendering to the point of discharge of air, meeting emission
16 standards as established by the department of health, excluding
17 air conditioner, fan, or other similar facility for the comfort
18 of persons at a place of business.

19 (b) Any provision of law to the contrary notwithstanding,
20 and upon receipt of the certification required by subsection

21 (c), there shall be exempted from, and excluded from the measure
22 of, the taxes imposed by this chapter, all of the gross proceeds



1 arising from, and all of the amount of tangible personal
2 property furnished in conjunction with, the construction,
3 reconstruction, erection, operation, use, or maintenance of an
4 air pollution control facility.

5 (c) Application for the exemption provided by this section
6 shall first be made with the director of health who, if
7 satisfied that the facility meets the pollution emission
8 criteria established by the department of health, shall certify
9 to that fact. A new certificate shall be obtained from the
10 director of health and filed with the director of taxation every
11 five years certifying that the pollution control facility
12 complies with the pollutant emission criteria established by the
13 department of health.

14 (d) This section shall be repealed on December 31, 2008."

15 15. By amending section 237-27.6 to read:

16 "**§237-27.6 Solid waste processing, disposal, and electric**
17 **generating facility; certain amounts exempt.** (a) Any provision
18 of the law to the contrary notwithstanding, there shall be
19 exempted from, and excluded from the measure of, the taxes
20 imposed by this chapter all of the amounts enumerated in
21 subsection (b) arising from a transaction involving a sale and
22 leaseback of a solid waste processing, disposal, and electric



1 generating facility entered into by a political subdivision of
2 the State under section 46-19.1 where the facility is owned or
3 under construction by the subdivision before May 10, 1988.

4 (b) Amounts are exempted or excluded from taxation under
5 this chapter only to the extent that they:

6 (1) Are received by an operator of a facility under an
7 operating contract with a political subdivision, where
8 the:

9 (A) Operator, or its successor, entered into an
10 operating contract prior to May 10, 1988;

11 (B) Operator enters into a lease of the facility from
12 the owner at a time that coincides with the time
13 the owner and the political subdivision entering
14 into a sale and leaseback transaction; and

15 (C) Amounts are used by the operator to make rental
16 payments to the owner;

17 (2) Are received as rental payments by the owner of the
18 facility from the operator of the facility;

19 (3) Do not exceed the payments made by the owner of the
20 facility under the sale and leaseback transaction to
21 the political subdivision; and



1 (4) In no case exceed debt service costs incurred by the
2 political subdivision for the construction of the
3 facility.

4 (c) For the purposes of this section:

5 "Debt service costs" means payments of principal and
6 interest on general obligation bonds issued at any time by a
7 political subdivision for the construction of the facility.

8 "Sale and leaseback" means a transaction in which a
9 facility is sold by a political subdivision to a private entity
10 for cash, under an installment sale, a financing lease, or
11 similar arrangement, or any combination thereof, where the
12 political subdivision has the right to repurchase the facility
13 at a later date, and where the facility is leased to an operator
14 of the facility.

15 "Solid waste processing, disposal, and electric generating
16 facility" or "facility" means a facility for the processing and
17 disposal of solid waste or the generation of electric energy, or
18 both, the construction of which has been financed pursuant to
19 section 47-4 and constitutes an undertaking as defined in
20 section 49-1.

21 "Operator" means a private entity who enters into an
22 agreement or other arrangement with the owner of a solid waste



1 processing, disposal, and electric generating facility for the
2 purpose of operating such facility for a political subdivision
3 of the State.

4 "Owner" means any person who purchases a solid waste
5 processing, disposal, and electric generating facility under
6 section 46-19.1.

7 (d) This section shall be repealed on December 31, 2008."

8 16. By amending section 237-28.1 to read:

9 "[+] §237-28.1 [+] **Exemption of certain shipbuilding and**
10 **ship repair business.** There shall be exempted from, and
11 excluded from the measure of, the taxes imposed by this chapter
12 all of the gross proceeds arising from shipbuilding and ship
13 repairs rendered to surface vessels federally owned or engaged
14 in interstate or international trade. This section shall be
15 repealed on December 31, 2008."

16 17. By amending section 237-29 to read:

17 "§237-29 **Exemptions for certified or approved housing**
18 **projects.** (a) All gross income received by any qualified
19 person or firm for the planning, design, financing,
20 construction, sale, or lease in the [~~State~~] state of a housing
21 project which has been certified or approved under section 201G-
22 116 shall be exempt from general excise taxes.



1 (b) All gross income received by a nonprofit or a limited
2 distribution mortgagor for a low and moderate income housing
3 project certified or approved under section 201G-116 shall be
4 exempt from general excise taxes.

5 (c) The director of taxation and the Hawaii housing
6 finance and development corporation shall adopt rules pursuant
7 to chapter 91 for the purpose of this section, including any
8 time limitation for the exemptions.

9 (d) This section shall be repealed on December 31, 2008."

10 18. By amending section 237-29.5 to read:

11 **"§237-29.5 Exemption for sales of tangible personal**
12 **property shipped out of the State.** (a) There shall be exempted
13 from, and excluded from the measure of, the taxes imposed by
14 this chapter all of the value or gross proceeds arising from the
15 manufacture, production, or sale of tangible personal property:

16 (1) Shipped by the manufacturer, producer, or seller to a
17 point outside the State where the property is resold
18 or otherwise consumed or used outside the State; or

19 (2) The sale of which is exempt under section 237-24.3(2).

20 (b) For the purposes of this section, the manufacturer,
21 producer, or seller shall take from the purchaser, a
22 certificate, in such form as the department shall prescribe,



1 certifying that the tangible personal property purchased is to
2 be resold or otherwise consumed or used outside the State. Any
3 purchaser who shall furnish such a certificate shall be
4 obligated to pay to the seller, upon demand, if the property
5 purchased is not resold or otherwise consumed or used outside
6 the State, the amount of the additional tax which by reason
7 thereof is imposed upon the seller.

8 (c) This section shall be repealed on December 31, 2008."

9 19. By amending section 237-29.53 to read:

10 **"§237-29.53 Exemption for contracting or services exported**
11 **out of State.** (a) There shall be exempted from, and excluded
12 from the measure of, taxes imposed by this chapter, all of the
13 value or gross income derived from contracting (as defined under
14 section 237-6) or services performed by a person engaged in a
15 service business or calling in the [State] state for use outside
16 the State where:

17 (1) The contracting or services are for resale,
18 consumption, or use outside the State; and

19 (2) The value or gross income derived from the contracting
20 or services performed would otherwise be subject to
21 the tax imposed under this chapter on contracting or
22 services at the highest rate.



1 For the purposes of this subsection, the seller or person
2 rendering the contracting or services exported and resold,
3 consumed, or used outside the State shall take from the
4 customer, a certificate or an equivalent, in a form the
5 department prescribes, certifying that the contracting or
6 service purchased is to be otherwise resold, consumed, or used
7 outside the State. Any customer who furnishes this certificate
8 or an equivalent shall be obligated to pay the seller or person
9 rendering the contracting or services, upon demand, if the
10 contracting or service purchased is not resold or otherwise
11 consumed or used outside the State, the amount of the additional
12 tax which by reason thereof is imposed upon the seller or person
13 rendering the contracting or service.

14 (b) There shall be exempted from, and excluded from the
15 measure of, taxes imposed by this chapter, all of the value or
16 gross income derived from contracting (as defined in section
17 237-6) or services performed by a person engaged in a service
18 business or calling in the [~~State~~] state for a purchaser who
19 resells all of the contracting or services for resale,
20 consumption, or use outside the State pursuant to subsection

21 (a). For the purposes of this subsection, the seller or person
22 rendering the contracting or services for a purchaser who



1 resells the contracting or services for resale, consumption, or
2 use outside the State shall take from the purchaser, a
3 certificate or an equivalent, in a form that the department
4 prescribes, certifying that the contracting or services
5 purchased is to be for resale, consumption, or use outside the
6 State pursuant to subsection (a). Any purchaser who furnishes
7 this certificate or an equivalent shall be obligated to pay the
8 seller or person rendering the contracting or services, upon
9 demand, if the contracting or services purchased is not resold
10 in its entirety to a customer of the purchaser who has complied
11 with subsection (a), the amount of the additional tax which by
12 reason thereof is imposed upon the seller or the person
13 rendering the contracting or service.

14 (c) This section shall be repealed on December 31, 2008."

15 20. By amending section 237-29.55 to read:

16 "[+] §237-29.55 [+] **Exemption for sale of tangible personal**
17 **property for resale at wholesale.** (a) There shall be exempted
18 from, and excluded from the measure of, the taxes imposed by
19 this chapter all of the gross proceeds or gross income arising
20 from the sale of tangible personal property imported to Hawaii
21 from a foreign or domestic source to a licensed taxpayer for



1 subsequent resale for the purpose of wholesale as defined under
2 section 237-4.

3 (b) The department, by rule, may provide that a seller may
4 take from the purchaser of imported tangible personal property,
5 a certificate, in a form that the department shall prescribe,
6 certifying that the purchaser of the imported tangible personal
7 property shall resell the imported tangible personal property at
8 wholesale as defined under section 237-4. Any purchaser who
9 furnishes a certificate shall be obligated to pay to the seller,
10 upon demand, if the sale in fact is not a sale for the purpose
11 of resale at wholesale, the amount of the additional tax which
12 by reason thereof is imposed upon the seller. The absence of a
13 certificate, unless the sales of the business are exclusively a
14 sale for the purpose of resale at wholesale, in itself, shall
15 give rise to the presumption that the sale is not a sale for the
16 purpose of resale at wholesale.

17 (c) This section shall be repealed on December 31, 2008."

18 21. By amending section 237-29.7 to read:

19 "[+] §237-29.7 [+] **Exemption of insurance companies.** This
20 chapter shall not apply to the gross income or gross proceeds of
21 insurance companies authorized to do business under chapter 431;
22 except this exemption shall not apply to any gross income or



1 gross proceeds received after December 31, 1991, as rents from
2 investments in real property in this [~~State,~~] state; provided
3 that gross income or gross proceeds from investments in real
4 property received by insurance companies after December 31,
5 1991, under written contracts entered into before January 1,
6 1992, that do not provide for the passing on of taxes or tax
7 increases shall not be taxed until the contracts are
8 renegotiated, renewed, or extended. This section shall be
9 repealed on December 31, 2008."

10 22. By amending subsection (e) of section 237-29.8 to
11 read:

12 "(e) This section shall not apply to gross proceeds or
13 gross income received after [~~June 30, 2010,~~] December 31, 2008."

14 SECTION 4. Chapter 239, Hawaii Revised Statutes, is
15 amended as follows:

16 1. By amending section 239-5.5 to read:

17 "[~~§~~]**239-5.5**[~~]~~ **Surcharge amounts exempt.** Amounts
18 received in the form of a monthly surcharge by a utility acting
19 on behalf of an affected utility under section 269-16.3 shall
20 not be gross income for the acting utility for purposes of this
21 chapter. Any amounts retained by the acting utility for
22 collection or other costs shall not be included in this



1 exemption. This section shall be repealed on December 31,
2 2008."

3 2. By amending section 239-6.5 to read:

4 "[+]§239-6.5[+] **Tax credit for lifeline telephone service**
5 **subsidy.** A telephone public utility subject to this chapter
6 that has been authorized to establish lifeline telephone service
7 rates by the public utilities commission shall be allowed a tax
8 credit, equal to the lifeline telephone service costs incurred
9 by the utility, to be applied against the utility's tax imposed
10 by this chapter. The amount of this credit shall be determined
11 and certified annually by the public utilities commission. The
12 tax liability for a telephone public utility claiming the credit
13 shall be calculated in the manner prescribed in section 239-5;
14 provided that the amount of tax due from the utility shall be
15 net of the lifeline service credit. This section shall be
16 repealed on December 31, 2008."

17 3. By amending subsection (d) of section 239-12 to read:

18 "(d) This section shall not apply to income received after
19 [~~June 30, 2010.~~] December 31, 2008."

20 SECTION 5. Section 240-1.5, Hawaii Revised Statutes, is
21 amended to read as follows:



1 " ~~[+]~~ §240-1.5 ~~[+]~~ **Surcharge amounts exempt.** Amounts
2 received in the form of a monthly surcharge by a utility acting
3 on behalf of an affected utility under section 269-16.3 shall
4 not be gross receipts for the acting utility for purposes of
5 this chapter. Any amounts retained by the acting utility for
6 collection or other costs shall not be included in this
7 exemption. This section shall be repealed on December 31,
8 2008."

9 SECTION 6. Chapter 241, Hawaii Revised Statutes, is
10 amended as follows:

11 1. By amending section 241-4.5 to read:

12 " ~~[+]~~ §241-4.5 ~~[+]~~ **Capital goods excise tax credit.** The
13 capital goods excise tax credit provided under section 235-110.7
14 shall be operative for this chapter after December 31, 1987.
15 This section shall be repealed on December 31, 2008."

16 2. By amending section 241-4.6, to read:

17 "§241-4.6 **Renewable energy technologies; income tax**
18 **credit.** The renewable energy technologies income tax credit
19 provided under section 235-12.5 shall be operative for this
20 chapter for taxable years beginning after December 31, 2002;
21 provided that the system was installed after June 30, 2003.
22 This section shall be repealed on December 31, 2008."



1 3. By amending section 241-4.7 to read:

2 "~~§~~241-4.7 **Low-income housing; income tax credit.**

3 The low-income housing tax credit provided under section 235-
4 110.8 shall be operative for this chapter. This section shall
5 be repealed on December 31, 2008."

6 4. By amending section 241-4.8 to read:

7 "~~§~~241-4.8 **High technology business investment tax**

8 **credit.** The high technology business investment tax credit
9 provided under section 235-110.9 shall be operative for this
10 chapter on July 1, 1999. This section shall be repealed on
11 December 31, 2008."

12 SECTION 7. Section 244D-4.3, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "~~§~~244D-4.3 **Exemption for sales of liquor shipped out**
15 **of the State.** (a) There shall be exempted from, and excluded
16 from the measure of, the taxes imposed by this chapter all of
17 the value or gross proceeds arising from the manufacture,
18 production, or sale of liquor shipped by the manufacturer,
19 producer, or seller to a point outside the State where the
20 liquor is resold or otherwise consumed or used outside the
21 State.



1 (b) For the purposes of this section, the manufacturer,
2 producer, or seller shall take from the purchaser, a
3 certificate, in such form as the department shall prescribe,
4 certifying that the liquor purchased is to be resold or
5 otherwise consumed or used outside the State. Any purchaser who
6 shall furnish such a certificate shall be obligated to pay to
7 the seller, upon demand, if the liquor purchased is not resold
8 or otherwise consumed or used outside the State, the amount of
9 the additional tax which by reason thereof is imposed upon the
10 seller.

11 (c) This section shall be repealed on December 31, 2008."

12 SECTION 8. Section 247-3, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§247-3 Exemptions.** (a) The tax imposed by section 247-1
15 shall not apply to:

16 (1) Any document or instrument that is executed prior to
17 January 1, 1967;

18 (2) Any document or instrument that is given to secure a
19 debt or obligation;

20 (3) Any document or instrument that only confirms or
21 corrects a deed, lease, sublease, assignment,
22 transfer, or conveyance previously recorded or filed;



- 1 (4) Any document or instrument between husband and wife,
2 reciprocal beneficiaries, or parent and child, in
3 which only a nominal consideration is paid;
- 4 (5) Any document or instrument in which there is a
5 consideration of \$100 or less paid or to be paid;
- 6 (6) Any document or instrument conveying real property
7 that is executed pursuant to an agreement of sale, and
8 where applicable, any assignment of the agreement of
9 sale, or assignments thereof; provided that the taxes
10 under this chapter have been fully paid upon the
11 agreement of sale, and where applicable, upon such
12 assignment or assignments of agreements of sale;
- 13 (7) Any deed, lease, sublease, assignment of lease,
14 agreement of sale, assignment of agreement of sale,
15 instrument or writing in which the United States or
16 any agency or instrumentality thereof or the State or
17 any agency, instrumentality, or governmental or
18 political subdivision thereof are the only parties
19 thereto;
- 20 (8) Any document or instrument executed pursuant to a tax
21 sale conducted by the United States or any agency or
22 instrumentality thereof or the State or any agency,



- 1 instrumentality, or governmental or political
2 subdivision thereof for delinquent taxes or
3 assessments;
- 4 (9) Any document or instrument conveying real property to
5 the United States or any agency or instrumentality
6 thereof or the State or any agency, instrumentality,
7 or governmental or political subdivision thereof
8 pursuant to the threat of the exercise or the exercise
9 of the power of eminent domain;
- 10 (10) Any document or instrument that solely conveys or
11 grants an easement or easements;
- 12 (11) Any document or instrument whereby owners partition
13 their property, whether by mutual agreement or
14 judicial action; provided that the value of each
15 owner's interest in the property after partition is
16 equal in value to that owner's interest before
17 partition;
- 18 (12) Any document or instrument between marital partners or
19 reciprocal beneficiaries who are parties to a divorce
20 action or termination of reciprocal beneficiary
21 relationship that is executed pursuant to an order of



- 1 the court in the divorce action or termination of
2 reciprocal beneficiary relationship;
- 3 (13) Any document or instrument conveying real property
4 from a testamentary trust to a beneficiary under the
5 trust;
- 6 (14) Any document or instrument conveying real property
7 from a grantor to the grantor's revocable living
8 trust, or from a grantor's revocable living trust to
9 the grantor as beneficiary of the trust;
- 10 (15) Any document or instrument conveying real property, or
11 any interest therein, from an entity that is a party
12 to a merger or consolidation under chapter 414, 414D,
13 415A, 421, 421C, 425, 425E, or 428 to the surviving or
14 new entity;
- 15 (16) Any document or instrument conveying real property, or
16 any interest therein, from a dissolving limited
17 partnership to its corporate general partner that
18 owns, directly or indirectly, at least a ninety per
19 cent interest in the partnership, determined by
20 applying section 318 (with respect to constructive
21 ownership of stock) of the federal Internal Revenue



1 Code of 1986, as amended, to the constructive
2 ownership of interests in the partnership; and
3 (17) Any document or instrument conveying real property to
4 any nonprofit or for-profit organization that has been
5 certified by the Hawaii housing finance and
6 development corporation for low-income housing
7 development.

8 (b) This section shall be repealed on December 31, 2008."

9 SECTION 9. Chapter 235, Hawaii Revised Statutes, is
10 amended as follows:

11 1. By repealing section 235-6.

12 [~~"§235-6 Foreign manufacturing corporation; warehousing of~~
13 ~~products. (a) For the purposes of sections 235-21 to 235-39, a~~
14 ~~foreign corporation engaged in the business of manufacturing~~
15 ~~without the State, having its manufactured products warehoused~~
16 ~~in this State by another person who is engaged in the business~~
17 ~~of warehousing in this State and whose compensation for~~
18 ~~providing the warehousing is included in the measure of the tax~~
19 ~~imposed by chapter 237 or 239, shall not be deemed to be~~
20 ~~carrying on a trade or business in this State if all of the~~
21 ~~following requirements are met:~~



1 ~~(1) Every delivery of sale of such products so warehoused~~
2 ~~is made at the warehouse to fill an order for such~~
3 ~~property procured by a representative (as defined in~~
4 ~~subsection (b)) from a seller licensed under chapter~~
5 ~~237 and purchasing such property for purposes of~~
6 ~~resale;~~

7 ~~(2) Every order so procured was made subject to acceptance~~
8 ~~and was accepted by the corporation at an office~~
9 ~~located out of this State;~~

10 ~~(3) No collection for the payment of the products~~
11 ~~delivered as described in paragraph (1) is made in~~
12 ~~this State by any of its employees or agents or by any~~
13 ~~representative; and~~

14 ~~(4) Except as provided in this section, it is not carrying~~
15 ~~on a trade or business in this State within the~~
16 ~~meaning of sections 235 21 to 235 39.~~

17 ~~(b) "Representative" means a salesperson, commission~~
18 ~~agent, broker, or other person who is authorized or employed as~~
19 ~~an independent contractor and not as an employee by the foreign~~
20 ~~manufacturing corporation described in subsection (a) to assist~~
21 ~~the manufacturer in selling its products in this State, by~~
22 ~~procuring orders for such sale, and who carries on such~~



1 ~~activities in this State (it being immaterial whether such~~
2 ~~activities are regular or intermittent), but whose functions and~~
3 ~~authority do not include the accepting of orders for, or the~~
4 ~~making of deliveries of, or the collecting of payment for~~
5 ~~deliveries of such products."]~~

6 2. By repealing section 235-12.

7 [~~§235-12 Energy conservation; income tax credit. (a)~~
8 ~~For taxable years ending before January 1, 1990, except in the~~
9 ~~case of ice storage systems for taxable years ending before~~
10 ~~January 1, 1991, each individual and corporate resident taxpayer~~
11 ~~who files an individual or corporate net income tax return for a~~
12 ~~taxable year, may claim a tax credit under this section against~~
13 ~~the Hawaii state individual or corporate net income tax. The~~
14 ~~tax credit may be claimed for any solar or wind energy device,~~
15 ~~heat pump, or ice storage system in an amount not to exceed ten~~
16 ~~per cent of the total cost of the device, heat pump, or ice~~
17 ~~storage system; provided that the tax credit shall apply only to~~
18 ~~the actual cost of the solar or wind energy device, the heat~~
19 ~~pump, or ice storage system, their accessories, and installation~~
20 ~~and shall not include the cost of consumer incentive premiums~~
21 ~~unrelated to the operation of the solar or wind energy device,~~
22 ~~the heat pump, or ice storage system offered with the sale of~~



1 ~~the solar or wind energy device, the heat pump, or ice storage~~
2 ~~system. The credit shall be claimed against net income tax~~
3 ~~liability for the year in which the solar or wind energy device,~~
4 ~~the heat pump, or ice storage system was purchased and placed in~~
5 ~~use; provided:~~

6 ~~(1) The tax credit shall be applicable only with respect~~
7 ~~to solar devices, which are erected and placed in~~
8 ~~service after December 31, 1974, but before January 1,~~
9 ~~1990;~~

10 ~~(2) In the case of wind energy devices and heat pumps, the~~
11 ~~tax credit shall be applicable only with respect to~~
12 ~~wind energy devices and heat pumps which are installed~~
13 ~~and placed in service after December 31, 1980, but~~
14 ~~before January 1, 1990; and~~

15 ~~(3) In the case of ice storage systems, the tax credit~~
16 ~~shall be applicable only with respect to ice storage~~
17 ~~systems which are installed and placed in service~~
18 ~~after December 31, 1985, but before January 1, 1990.~~

19 ~~Tax credits which exceed the taxpayer's income tax liability may~~
20 ~~be used as a credit against the taxpayer's income tax liability~~
21 ~~in subsequent years until exhausted. If federal energy tax~~
22 ~~credits are not extended beyond December 31, 1985, are not~~



1 ~~retroactively extended or reenacted, or federal energy tax~~
2 ~~credits the same as or less in amount than the credits in effect~~
3 ~~during the 1985 taxable year are not enacted during the taxable~~
4 ~~year 1986, then the state tax credit shall be increased to~~
5 ~~fifteen per cent of the total cost after December 31, 1985, but~~
6 ~~before January 1, 1990.~~

7 ~~As used in this subsection:~~

8 ~~"Solar or wind energy device" means any new identifiable~~
9 ~~facility, equipment, apparatus, or the like which makes use of~~
10 ~~solar or wind energy for heating, cooling, or reducing the use~~
11 ~~of other types of energy dependent upon fossil fuel for their~~
12 ~~generation.~~

13 ~~"Heat pump" means and refers to an electric powered~~
14 ~~compression heating system which extracts energy from warm~~
15 ~~ambient air or recovers waste heat to assist in the production~~
16 ~~of hot water.~~

17 ~~"Ice storage system" refers to ice banks or other cool~~
18 ~~energy storage tanks, containers, accessories, and controls that~~
19 ~~are specifically designed to store ice or chilled fluids for the~~
20 ~~express purpose of shifting the consumption of energy to off-~~
21 ~~peak periods.~~



1 ~~(b) For taxable years beginning after December 31, 1989,~~
2 ~~each individual or corporate resident taxpayer who files an~~
3 ~~individual or corporate net income tax return for a taxable~~
4 ~~year, may claim a tax credit under this section against the~~
5 ~~Hawaii state individual or corporate net income tax. The tax~~
6 ~~credit may be claimed as follows:~~

7 ~~(1) For wind energy systems that are installed and placed~~
8 ~~in service after December 31, 1989, but before July 1,~~
9 ~~2003, the credit shall be twenty per cent of the~~
10 ~~actual cost;~~

11 ~~(2) For solar energy systems that are installed and placed~~
12 ~~in service after December 31, 1989, but before July 1,~~
13 ~~2003, on new and existing single family residential~~
14 ~~buildings, the credit shall be in an amount not to~~
15 ~~exceed thirty five per cent or \$1,750, whichever is~~
16 ~~less, of the actual cost of the solar energy system;~~

17 ~~(3) For solar energy systems that are installed and placed~~
18 ~~in service after December 31, 1989, but before July 1,~~
19 ~~2003, on new and existing multiunit buildings used~~
20 ~~primarily for residential purposes, the credit shall~~
21 ~~be in an amount not to exceed thirty five per cent or~~

1 ~~\$350 per building unit, whichever is less, of the~~
2 ~~actual cost of the solar energy system;~~

3 ~~(4) For solar energy systems that are installed and placed~~
4 ~~in service after December 31, 1989, but before July 1,~~
5 ~~2003, in new and existing hotel, commercial, and~~
6 ~~industrial facilities, the credit shall be in an~~
7 ~~amount not to exceed thirty five per cent of the~~
8 ~~actual cost of the solar energy system;~~

9 ~~(5) For heat pumps that are installed and placed in~~
10 ~~service after December 31, 1989, but before July 1,~~
11 ~~2003, in new and existing single family residential~~
12 ~~buildings, the credit shall be in an amount not to~~
13 ~~exceed twenty per cent or \$400, whichever is less, of~~
14 ~~the actual cost of the heat pump;~~

15 ~~(6) For heat pumps that are installed and placed in~~
16 ~~service after December 31, 1989, but before July 1,~~
17 ~~2003, in new and existing multiunit buildings used~~
18 ~~primarily for residential purposes, the credit shall~~
19 ~~be in an amount not to exceed twenty per cent or \$200~~
20 ~~per building unit, whichever is less, of the actual~~
21 ~~cost of the heat pump; provided that a licensed~~
22 ~~professional engineer reviews the design of the system~~



1 ~~and provides a written opinion that the system, in~~
2 ~~accordance with recognized engineering practice, is~~
3 ~~designed to provide not less than ninety per cent of~~
4 ~~the daily annual average hot water needs of all of the~~
5 ~~occupants of the building;~~

6 ~~(7) For heat pumps that are installed and placed in~~
7 ~~service after December 31, 1989, but before July 1,~~
8 ~~2003, in new and existing hotel, commercial, and~~
9 ~~industrial facilities, the credit shall be in an~~
10 ~~amount not to exceed twenty per cent of the actual~~
11 ~~cost of the heat pump; and~~

12 ~~(8) For ice storage systems that are installed and placed~~
13 ~~in service after December 31, 1990, but before July 1,~~
14 ~~2003, the credit shall be in an amount not to exceed~~
15 ~~fifty per cent of the actual cost of the ice storage~~
16 ~~system.~~

17 ~~The per unit of actual cost of a solar energy system or heat~~
18 ~~pump referred to in subsection (b) (3) and (6) shall be~~
19 ~~determined by multiplying the actual cost of the solar energy~~
20 ~~system or heat pump installed and placed in service in the~~
21 ~~multiunit building by a fraction, the numerator being the total~~
22 ~~square feet of that unit in the multiunit building, and the~~

1 ~~denominator being the total square feet of all the units in the~~
2 ~~multiunit building.~~

3 ~~If federal energy tax credits similar to any of those~~
4 ~~provided in paragraphs (1) to (8) are established after June 30,~~
5 ~~1998, but before July 1, 2003, then the state tax credit~~
6 ~~provided in the respective paragraph or paragraphs shall be~~
7 ~~reduced by the amount of the applicable federal energy tax~~
8 ~~credit.~~

9 ~~(c) Tax credits shall apply only to the actual cost of the~~
10 ~~solar or wind energy system, heat pump, or ice storage system,~~
11 ~~including their accessories and installation, and shall not~~
12 ~~include the cost of consumer incentive premiums unrelated to the~~
13 ~~operation of the system or offered with the sale of the system~~
14 ~~or heat pump. The tax credit shall be claimed against net~~
15 ~~income tax liability for the year in which the solar or wind~~
16 ~~energy system, heat pump, or ice storage system was purchased~~
17 ~~and placed in use in Hawaii. Tax credits that exceed the~~
18 ~~taxpayer's income tax liability may be used as credit against~~
19 ~~the taxpayer's income tax liability in subsequent years until~~
20 ~~exhausted.~~

21 ~~(d) The director of taxation shall prepare such forms as~~
22 ~~may be necessary to claim a credit under this section. The~~



1 ~~director may also require the taxpayer to furnish reasonable~~
2 ~~information to ascertain the validity of the claim for credit~~
3 ~~made under this section and may adopt rules necessary to~~
4 ~~effectuate the purposes of this section pursuant to chapter 91.~~

5 ~~(c) As used in this section:~~

6 ~~"Solar or wind energy system" means any new identifiable~~
7 ~~facility, equipment, apparatus, or the like that converts solar~~
8 ~~insolation or wind energy to useful thermal or electrical energy~~
9 ~~for heating, cooling, or reducing the use of other types of~~
10 ~~energy dependent upon fossil fuel for their generation.~~

11 ~~"Heat pump" means an electric powered compression heating~~
12 ~~system that extracts energy from warm ambient air or recovers~~
13 ~~waste heat to assist in the production of hot water.~~

14 ~~"Ice storage system" refers to ice banks or other cool~~
15 ~~energy storage tanks, containers, accessories, and controls that~~
16 ~~are specifically designed to store ice or chilled fluids for the~~
17 ~~express purpose of shifting the consumption of energy to off-~~
18 ~~peak periods."]~~

19 3. By repealing section 235-110.4.

20 [~~§235-110.4 Hotel construction and remodeling tax credit.~~

21 ~~(a) There shall be allowed to each taxpayer subject to the~~
22 ~~taxes imposed by this chapter and chapter 237D, an income tax~~



1 ~~credit, which shall be deductible from the taxpayer's net income~~
2 ~~tax liability, if any, imposed by this chapter for the taxable~~
3 ~~year in which the credit is properly claimed.~~

4 ~~The amount of the credit shall be four per cent of the~~
5 ~~construction or renovation costs incurred during the taxable~~
6 ~~year for each qualified hotel facility located in Hawaii, and~~
7 ~~shall not include the construction or renovation costs for which~~
8 ~~another credit was claimed under this chapter for the taxable~~
9 ~~year.~~

10 ~~In the case of a partnership, S corporation, estate, trust,~~
11 ~~association of apartment owners of a qualified hotel facility,~~
12 ~~time share owners association, or any developer of a time share~~
13 ~~project, the tax credit allowable is for construction or~~
14 ~~renovation costs incurred by the entity for the taxable year.~~

15 ~~The cost upon which the tax credit is computed shall be~~
16 ~~determined at the entity level. Distribution and share of~~
17 ~~credit shall be determined pursuant to section 235-110.7(a).~~

18 ~~If a deduction is taken under section 179 (with respect to~~
19 ~~election to expense depreciable business assets) of the Internal~~
20 ~~Revenue Code, no tax credit shall be allowed for that portion of~~
21 ~~the construction or renovation cost for which the deduction is~~
22 ~~taken.~~



1 ~~The basis of eligible property for depreciation or~~
2 ~~accelerated cost recovery system purposes for state income taxes~~
3 ~~shall be reduced by the amount of credit allowable and claimed.~~
4 ~~In the alternative, the taxpayer shall treat the amount of the~~
5 ~~credit allowable and claimed as a taxable income item for the~~
6 ~~taxable year in which it is properly recognized under the method~~
7 ~~of accounting used to compute taxable income.~~

8 ~~(b) The credit allowed under this section shall be claimed~~
9 ~~against the net income tax liability for the taxable year.~~

10 ~~(c) If the tax credit under this section exceeds the~~
11 ~~taxpayer's income tax liability, the excess of credit over~~
12 ~~liability shall be refunded to the taxpayer; provided that no~~
13 ~~refunds or payment on account of the tax credits allowed by this~~
14 ~~section shall be made for amounts less than \$1. All claims for~~
15 ~~a tax credit under this section shall be filed on or before the~~
16 ~~end of the twelfth month following the close of the taxable year~~
17 ~~for which the credit may be claimed. Failure to comply with the~~
18 ~~foregoing provision shall constitute a waiver of the right to~~
19 ~~claim the credit.~~

20 ~~(d) The director of taxation shall prepare any forms that~~
21 ~~may be necessary to claim a credit under this section. The~~
22 ~~director may also require the taxpayer to furnish information to~~



1 ~~ascertain the validity of the claim for credit made under this~~
2 ~~section and may adopt rules necessary to effectuate the purposes~~
3 ~~of this section pursuant to chapter 91.~~

4 ~~(e) The tax credit allowed under this section shall be~~
5 ~~available for taxable years beginning after December 31, 1998,~~
6 ~~and shall not be available for taxable years beginning after~~
7 ~~December 31, 2005.~~

8 ~~(f) To qualify for the income tax credit, the taxpayer~~
9 ~~shall be in compliance with all applicable federal, state, and~~
10 ~~county statutes, rules, and regulations.~~

11 ~~(g) As used in this section:~~

12 ~~"Construction or renovation cost" means any costs incurred~~
13 ~~after December 31, 1998, for plans, design, construction, and~~
14 ~~equipment related to new construction, alterations, or~~
15 ~~modifications to a qualified hotel facility.~~

16 ~~"Net income tax liability" means income tax liability~~
17 ~~reduced by all other credits allowed under this chapter.~~

18 ~~"Qualified hotel facility" means a hotel/hotel condo as~~
19 ~~defined in section 486K 1, and includes a time share facility or~~
20 ~~project.~~

21 ~~"Taxpayer" means a taxpayer under this chapter, and~~
22 ~~includes:~~



1 ~~(1) Association of apartment owners, or~~

2 ~~(2) Time share owners association.~~

3 ~~(h) No taxpayer that claims a credit under this section~~

4 ~~shall claim a credit under chapter 235D."]~~

5 4. By repealing section 235-110.45.

6 ~~["§235-110.45] Residential construction and remodeling~~

7 ~~tax credit. (a) There shall be allowed to each taxpayer who is~~

8 ~~the owner, developer, or lessee of residential real property,~~

9 ~~subject to the taxes imposed by this chapter, a residential~~

10 ~~construction and remodeling tax credit that shall be deductible~~

11 ~~from the taxpayer's net income tax liability, if any, imposed by~~

12 ~~this chapter for the taxable year in which the credit is~~

13 ~~properly claimed. The amount of the tax credit claimed under~~

14 ~~this section by the taxpayer in all years for which the credit~~

15 ~~is available shall be limited to four per cent of the~~

16 ~~residential construction or remodeling costs incurred during the~~

17 ~~taxable year for which the credit is claimed; provided that the~~

18 ~~costs shall not exceed \$250,000 in the aggregate for each~~

19 ~~residential unit; and that the costs are incurred before July 1,~~

20 ~~2003.~~

21 ~~In the case of a partnership, S corporation, estate, trust,~~

22 ~~or association of apartment owners, the tax credit allowable is~~



1 ~~for construction or remodeling costs incurred by the entity for~~
2 ~~the taxable year. The cost upon which the tax credit is~~
3 ~~computed shall be determined at the entity level. Distribution~~
4 ~~and share of credit shall be determined pursuant to section 235-~~
5 ~~110.7(a).~~

6 ~~If a deduction is taken under section 179 (with respect to~~
7 ~~election to expense depreciable business assets) of the Internal~~
8 ~~Revenue Code, no tax credit shall be allowed for that portion of~~
9 ~~the construction or remodeling cost for which the deduction is~~
10 ~~taken.~~

11 ~~The basis of eligible property for depreciation or~~
12 ~~accelerated cost recovery system purposes for state income taxes~~
13 ~~shall be reduced by the amount of credit allowable and claimed.~~
14 ~~In the alternative, the taxpayer shall treat the amount of the~~
15 ~~credit allowable and claimed as a taxable income item for the~~
16 ~~taxable year in which it is properly recognized under the method~~
17 ~~of accounting used to compute taxable income.~~

18 ~~(b) The credit allowed under this section shall be claimed~~
19 ~~against the net income tax liability, if any, imposed by this~~
20 ~~chapter for the taxable year in which the tax credit is properly~~
21 ~~claimed.~~



1 ~~(c) If the tax credit under this section exceeds the~~
2 ~~taxpayer's income tax liability, the excess of credit over~~
3 ~~liability may be used as a credit against the taxpayer's income~~
4 ~~tax liability in subsequent years until exhausted. All claims,~~
5 ~~including amended claims, for a tax credit under this section~~
6 ~~shall be filed on or before the end of the twelfth month~~
7 ~~following the close of the taxable year for which the credit may~~
8 ~~be claimed. Failure to comply with the foregoing provision~~
9 ~~shall constitute a waiver of the right to claim the credit.~~

10 ~~(d) The director of taxation shall prepare any forms that~~
11 ~~may be necessary to claim a credit under this section. The~~
12 ~~director may also require the taxpayer to furnish information to~~
13 ~~ascertain the validity of the claim for credit made under this~~
14 ~~section and may adopt rules necessary to effectuate the purposes~~
15 ~~of this section pursuant to chapter 91.~~

16 ~~(e) The tax credit allowed under this section shall be~~
17 ~~available for taxable years beginning after December 31, 2000,~~
18 ~~and shall not be available for taxable years beginning after~~
19 ~~December 31, 2003.~~

20 ~~(f) To qualify for the income tax credit, the taxpayer~~
21 ~~shall be in compliance with all applicable federal, state, and~~
22 ~~county statutes, rules, and regulations.~~



1 ~~(g) As used in this section:~~

2 ~~"Construction or remodeling cost" means any costs incurred~~
3 ~~after December 31, 2000, for plans, design, construction, and~~
4 ~~equipment that is permanently affixed to the building or~~
5 ~~structure related to new construction, alterations, or~~
6 ~~modifications to a residential apartment unit or house, and~~
7 ~~shall not include any costs for which another credit was claimed~~
8 ~~under this chapter.~~

9 ~~"Net income tax liability" means income tax liability~~
10 ~~reduced by all other credits allowed under this chapter."]~~

11 5. By repealing section 235-110.92.

12 ~~["~~§235-110.92~~ Drought mitigating water storage facility,~~

13 ~~income tax credit. (a) There shall be allowed to each eligible~~
14 ~~taxpayer subject to the taxes imposed by this chapter, an income~~
15 ~~tax credit, which shall be deductible from the eligible~~
16 ~~taxpayer's net income tax liability, if any, imposed by this~~
17 ~~chapter for the taxable year in which the credit is properly~~
18 ~~claimed.~~

19 ~~The amount of the credit shall be four per cent of the~~
20 ~~qualifying costs incurred and paid by the eligible taxpayer~~
21 ~~during the taxable year for each qualified water storage~~
22 ~~facility in the State, and shall not include construction or~~



1 ~~repair costs for which another credit was claimed under this~~
2 ~~chapter for the taxable year.~~

3 ~~In the case of a partnership, S corporation, estate, or~~
4 ~~trust, the tax credit allowable is for qualifying costs incurred~~
5 ~~and paid by the entity for the taxable year. The cost upon~~
6 ~~which the tax credit is computed shall be determined at the~~
7 ~~entity level. Distribution and share of credit shall be~~
8 ~~determined pursuant to section 235 110.7(a).~~

9 ~~If a deduction is taken under section 179 (with respect to~~
10 ~~election to expense depreciable business assets) of the Internal~~
11 ~~Revenue Code, no tax credit shall be allowed for that portion of~~
12 ~~the construction or repair costs for which the deduction is~~
13 ~~taken.~~

14 ~~The basis of eligible property for depreciation or~~
15 ~~accelerated cost recovery system purposes for state income taxes~~
16 ~~shall be reduced by the amount of credit allowable and claimed.~~
17 ~~In the alternative, the taxpayer shall treat the amount of the~~
18 ~~credit allowable and claimed as taxable income for the taxable~~
19 ~~year in which it is properly recognized under the method of~~
20 ~~accounting used to compute taxable income.~~

21 ~~(b) The credit allowed under this section shall be claimed~~
22 ~~against the net income tax liability for the taxable year.~~



1 ~~(c) If the tax credit under this section exceeds the~~
2 ~~eligible taxpayer's income tax liability, the excess of the~~
3 ~~credits over liability shall be refunded to the taxpayer;~~
4 ~~provided that no refunds or payment on account of the tax credit~~
5 ~~allowed by this section shall be made for amounts less than \$1.~~
6 ~~All claims, including any amended claims, for a tax credit under~~
7 ~~this section shall be filed on or before the end of the twelfth~~
8 ~~month following the close of the taxable years for which the~~
9 ~~credit may be claimed. Failure to comply with the foregoing~~
10 ~~provision shall constitute a waiver of the right to claim the~~
11 ~~credit.~~

12 ~~(d) The director of taxation shall prepare any forms that~~
13 ~~may be necessary to claim a credit under this section. The~~
14 ~~director may also require the taxpayer to furnish information to~~
15 ~~ascertain the validity of the claim for credit made under this~~
16 ~~section and may adopt rules necessary to effectuate the purposes~~
17 ~~of this section pursuant to chapter 91.~~

18 ~~(e) The credit allowed under this section shall be~~
19 ~~available for taxable years beginning after December 31, 2000,~~
20 ~~and shall not be available for taxable years beginning after~~
21 ~~December 31, 2005.~~

22 ~~(f) As used in this section:~~



1 ~~"Eligible taxpayer" means a taxpayer who:~~
2 ~~(1) Is a farmer or rancher, and~~
3 ~~(2) Is not claimed or is not otherwise eligible to be~~
4 ~~claimed as a dependent by another taxpayer for Hawaii~~
5 ~~state income tax purposes.~~

6 ~~"Net income tax liability" means net income tax liability~~
7 ~~reduced by all other credits allowed under this chapter.~~

8 ~~"Qualified water storage facility" means a water storage~~
9 ~~facility that is part of a conservation plan approved by the~~
10 ~~local soil and water conservation district.~~

11 ~~"Qualifying costs" means any cost incurred and paid by the~~
12 ~~taxpayer after December 31, 2000, for the new construction of a~~
13 ~~qualified water storage facility or the repair or reconstruction~~
14 ~~of an existing qualified water storage facility, including the~~
15 ~~costs of new equipment related to the construction or repair of~~
16 ~~the new or existing qualified water storage facility, but does~~
17 ~~not include amounts received through grant or subsidy from any~~
18 ~~federal or state government."]~~

19 SECTION 10. Chapter 235D, Hawaii Revised Statutes, is
20 repealed.

21 SECTION 11. Chapter 237, Hawaii Revised Statutes, is
22 repealed as follows:



1 1. By repealing section 237-27.1.

2 [~~"§237-27.1 Exemption of sale of alcohol fuels. (a)~~

3 ~~There shall be exempted from and excluded from the measure of~~
4 ~~the taxes imposed by this chapter all of the gross proceeds~~
5 ~~arising from the sale of alcohol fuels for consumption or use by~~
6 ~~the purchaser and not for resale.~~

7 ~~(b) As used in this section, "alcohol fuels" means neat~~
8 ~~biomass derived alcohol liquid fuel or a petroleum derived fuel~~
9 ~~and alcohol liquid fuel mixture consisting of at least ten~~
10 ~~volume per cent denatured biomass derived alcohol commercially~~
11 ~~usable as a fuel to power aircraft, seacraft, spacecraft,~~
12 ~~automobiles, or other motorized vehicles.~~

13 ~~(c) The director of taxation shall adopt rules pursuant to~~
14 ~~chapter 91 necessary to administer this section.~~

15 ~~(d) This section shall be repealed on December 31, 2006."]~~

16 2. By repealing section 237-29.65.

17 [~~"§237-29.65 Exemption for public Internet data centers.~~

18 ~~(a) This chapter shall not apply to the gross income or gross~~
19 ~~proceeds received by a public Internet data center.~~

20 ~~(b) As used in this section:~~



1 ~~"Compensated use by the public" means use of equipment,~~
2 ~~maintenance of equipment, and rental of space in a public~~
3 ~~Internet data center.~~

4 ~~"Public Internet data center" means a facility available~~
5 ~~for compensated use by the public and designed to:~~

6 ~~(1) House data servers;~~

7 ~~(2) Operate on a twenty four hour, seven day a week basis;~~

8 ~~(3) Have redundant systems for electricity, air~~
9 ~~conditioning, fire suppression, and security; and~~

10 ~~(4) Provide services such as bandwidth, co location, data~~
11 ~~backup, complex web hosting, and aggregation for~~
12 ~~application service providers.~~

13 ~~(c) This section shall apply to gross income or gross~~
14 ~~proceeds received after June 30, 2001, but not after December~~
15 ~~31, 2005."]~~

16 3. By repealing section 237-29.75.

17 ~~["~~§237-29.75~~ Exemption for sale of net operating loss by~~
18 ~~qualified high technology business. Effective January 1, 2001,~~
19 ~~there shall be exempted from the measure of taxes imposed by~~
20 ~~this chapter all of the value or gross income derived from the~~
21 ~~sale of a net operating loss by a qualified high technology~~
22 ~~business defined in section 235-7.3 or by any partner, member,~~



1 ~~er shareholder of a qualified high technology business in the~~
2 ~~case of partnerships, limited liability partnerships, limited~~
3 ~~liability companies classified as partnerships, and S~~
4 ~~corporations.~~

5 ~~This section shall be repealed on December 31, 2005."]~~

6 SECTION 12. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 13. This Act shall take effect upon its approval.

9



S.B. NO. 2829
S.D. 2
H.D. 1
Proposed

Report Title:

Tax Exemptions and Credits; Expiration

Description:

Establishes the repeal all tax credits and exemptions except for those pertaining to individual income tax, beginning in the 2009 taxable year. Repeals provisions that are no longer applicable.

SB2829 SD2 HD1 Propsed

