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# A BILL FOR AN ACT

RELATING TO ELECTRONIC TAX ADMINISTRATION.

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

1 **PART I**

2 SECTION 1. The purpose of this Act is to improve the  
3 department of taxation's collection capabilities through the  
4 efficient allocation of resources, simplified taxpayer filings,  
5 and a more user friendly interface with the public.

6 The legislature finds that in 2006, the department of  
7 taxation collected \$4,400,000,000. Of that amount, almost  
8 \$2,500,000,000 was generated through the general excise tax,  
9 \$1,600,000,000 from individual income taxes, \$216,000,000  
10 through the transient accommodations tax, and the balance was  
11 collected from miscellaneous taxes.

12 In 2006, only twenty-seven per cent of all individual  
13 income tax returns were filed electronically, leaving  
14 seventy-three per cent as paper forms and payments to be  
15 processed manually. During tax season, it is not unusual for  
16 the department of taxation to receive one ton of mail a day.

17 The legislature further finds that in 2006, only four per  
18 cent (or 60,000) of all business returns processed were filed



1 electronically, with an astounding ninety-six per cent requiring  
2 manual processing of paper forms and payments. Business returns  
3 may also require further monthly income tax withholding and  
4 general excise and transient accommodations tax payments,  
5 resulting in over 1,500,000 filings by businesses in Hawaii,  
6 again ninety-six per cent being processed manually.

7 Overall, only fifteen per cent of Hawaii tax returns are  
8 filed electronically, and the \$2.50 convenience fee imposed by  
9 the eHawaii.gov portal is perceived as a barrier for many people  
10 who might consider filing electronically.

11 The legislature finds that in other states, electronic  
12 filing grew by roughly twenty-five to thirty per cent from  
13 2000-2004, and those states with electronic filing mandates have  
14 experienced higher growth rates than those without mandates. As  
15 a result, many states have used electronic filing applications  
16 as an opportunity to improve taxpayer services and reduce their  
17 operating costs (e.g., electronic payments, online account  
18 access, electronic forms and instructions), as well as  
19 increasing their collections without undue burdens to taxpayers.

20 **PART II**

21 SECTION 2. The purpose of this part is to provide revenue  
22 generating initiatives that will be benefits-funded, meaning the



1 vendor will be paid when measurable increases in revenues  
2 resulting from the initiatives are collected by the State. The  
3 revenues will be used by the department of taxation to enhance  
4 its computer system, called the integrated tax services and  
5 management system, and to streamline related operational  
6 procedures.

7 SECTION 3. Chapter 231, Hawaii Revised Statutes, is  
8 amended by adding a new section to be appropriately designated  
9 and to read as follows:

10 "§231- Integrated tax services and management special  
11 fund. (a) There is established in the state treasury the  
12 integrated tax services and management special fund to improve  
13 customer services and taxpayer fairness, and increase cost  
14 savings, with an emphasis on electronic filings.

15 (b) Notwithstanding any other law to the contrary, the  
16 source of funding of any appropriations to the integrated tax  
17 services and management special fund for the purposes of funding  
18 initiatives under subsection (c) shall come from the tax  
19 revenues collected pursuant to chapters 235, 237, and 238.

20 (c) Moneys in the special fund may be expended upon  
21 legislative appropriation by the department to pay for the  
22 integrated tax services and management system's performance-



1 based contracts and administrative and operating expenses  
2 related to the integrated tax services and management system's  
3 post-implementation revenue-generating initiatives; provided  
4 that the department may expend up to \$ \_\_\_\_\_ annually to  
5 improve the tax collection capabilities and achieve the  
6 operational efficiencies that are the department's  
7 responsibilities under this section."

8 SECTION 4. Section 36-27, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 **"§36-27 Transfers from special funds for central service**  
11 **expenses.** Except as provided in this section, and  
12 notwithstanding any other law to the contrary, from time to  
13 time, the director of finance, for the purpose of defraying the  
14 prorated estimate of central service expenses of government in  
15 relation to all special funds, except the:

- 16 (1) Special out-of-school time instructional program fund  
17 under section 302A-1310;
- 18 (2) School cafeteria special funds of the department of  
19 education;
- 20 (3) Special funds of the University of Hawaii;
- 21 (4) State educational facilities improvement special fund;



- 1 (5) Convention center enterprise special fund under
- 2 section 201B-8;
- 3 (6) Special funds established by section 206E-6;
- 4 (7) Housing loan program revenue bond special fund;
- 5 (8) Housing project bond special fund;
- 6 (9) Aloha Tower fund created by section 206J-17;
- 7 (10) Funds of the employees' retirement system created by
- 8 section 88-109;
- 9 (11) Unemployment compensation fund established under
- 10 section 383-121;
- 11 (12) Hawaii hurricane relief fund established under chapter
- 12 431P;
- 13 (13) Hawaii health systems corporation special funds and
- 14 the subaccounts of its regional system boards;
- 15 (14) Tourism special fund established under section
- 16 201B-11;
- 17 (15) Universal service fund established under chapter 269;
- 18 (16) Emergency and budget reserve fund under section
- 19 328L-3;
- 20 (17) Public schools special fees and charges fund under
- 21 section 302A-1130(f);
- 22 (18) Sport fish special fund under section 187A-9.5;



- 1 (19) Neurotrauma special fund under section 321H-4;
- 2 (20) Deposit beverage container deposit special fund under  
3 section 342G-104;
- 4 (21) Glass advance disposal fee special fund established by  
5 section 342G-82;
- 6 (22) Center for nursing special fund under section  
7 304A-2163;
- 8 (23) Passenger facility charge special fund established by  
9 section 261-5.5;
- 10 (24) Solicitation of funds for charitable purposes special  
11 fund established by section 467B-15;
- 12 (25) Land conservation fund established by section 173A-5;
- 13 (26) Court interpreting services revolving fund under  
14 section 607-1.5;
- 15 (27) Trauma system special fund under section 321-22.5;
- 16 (28) Hawaii cancer research special fund;
- 17 (29) Community health centers special fund; ~~and~~
- 18 (30) Emergency medical services special fund; and
- 19 (31) Integrated tax services and management special fund  
20 under section 231- ;

21 shall deduct five per cent of all receipts of all other special  
22 funds, which deduction shall be transferred to the general fund



1 of the State and become general realizations of the State. All  
 2 officers of the State and other persons having power to allocate  
 3 or disburse any special funds shall cooperate with the director  
 4 in effecting these transfers. To determine the proper revenue  
 5 base upon which the central service assessment is to be  
 6 calculated, the director shall adopt rules pursuant to chapter  
 7 91 for the purpose of suspending or limiting the application of  
 8 the central service assessment of any fund. No later than  
 9 twenty days prior to the convening of each regular session of  
 10 the legislature, the director shall report all central service  
 11 assessments made during the preceding fiscal year."

12 SECTION 5. Section 36-30, Hawaii Revised Statutes, is  
 13 amended by amending subsection (a) to read as follows:

- 14 "(a) Each special fund, except the:
- 15 (1) Transportation use special fund established by section
  - 16 261D-1;
  - 17 (2) Special out-of-school time instructional program fund
  - 18 under section 302A-1310;
  - 19 (3) School cafeteria special funds of the department of
  - 20 education;
  - 21 (4) Special funds of the University of Hawaii;
  - 22 (5) State educational facilities improvement special fund;



- 1 (6) Special funds established by section 206E-6;
- 2 (7) Aloha Tower fund created by section 206J-17;
- 3 (8) Funds of the employees' retirement system created by
- 4 section 88-109;
- 5 (9) Unemployment compensation fund established under
- 6 section 383-121;
- 7 (10) Hawaii hurricane relief fund established under chapter
- 8 431P;
- 9 (11) Convention center enterprise special fund established
- 10 under section 201B-8;
- 11 (12) Hawaii health systems corporation special funds and
- 12 the subaccounts of its regional system boards;
- 13 (13) Tourism special fund established under section
- 14 201B-11;
- 15 (14) Universal service fund established under chapter 269;
- 16 (15) Emergency and budget reserve fund under section
- 17 328L-3;
- 18 (16) Public schools special fees and charges fund under
- 19 section 302A-1130(f);
- 20 (17) Sport fish special fund under section 187A-9.5;
- 21 (18) Neurotrauma special fund under section 321H-4;





- 1 (19) Center for nursing special fund under section  
2 304A-2163;
- 3 (20) Passenger facility charge special fund established by  
4 section 261-5.5;
- 5 (21) Court interpreting services revolving fund under  
6 section 607-1.5;
- 7 (22) Trauma system special fund under section 321-22.5;
- 8 (23) Hawaii cancer research special fund;
- 9 (24) Community health centers special fund; ~~and~~
- 10 (25) Emergency medical services special fund; and
- 11 (26) Integrated tax services and management special fund  
12 under section 231- ;

13 shall be responsible for its pro rata share of the  
14 administrative expenses incurred by the department responsible  
15 for the operations supported by the special fund concerned."

16 SECTION 6. Section 235-119, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 "~~§235-119~~ **Taxes, state realizations.** ~~[All]~~ (a) Except as  
19 provided in subsection (b), all income taxes shall be for the  
20 use of the State and shall be paid into the state treasury at  
21 such times as the director of finance shall direct.



1        (b) The director of taxation shall pay the income taxes  
2 into the state treasury as a state realization; provided that a  
3 sum, not to exceed the amount necessary to meet the obligations  
4 of the integrated tax services and management system's  
5 performance-based contracts, may be retained and deposited into  
6 the state treasury to the credit of the integrated tax services  
7 and management special fund. The sum retained by the director  
8 of taxation for deposit into the integrated tax services and  
9 management special fund shall be limited to amounts appropriated  
10 by the legislature."

11        SECTION 7. Section 237-31, Hawaii Revised Statutes, is  
12 amended to read as follows:

13        "**§237-31 Remittances.** All remittances of taxes imposed by  
14 this chapter shall be made by money, bank draft, check,  
15 cashier's check, money order, or certificate of deposit to the  
16 office of the department of taxation to which the return was  
17 transmitted. The department shall issue its receipts therefor  
18 to the taxpayer and shall pay the moneys into the state treasury  
19 as a state realization, to be kept and accounted for as provided  
20 by law; provided that:

21        (1) The sum from all general excise tax revenues realized  
22        by the State that represents the difference between



1 \$90,000,000 and the proceeds from the sale of any  
2 general obligation bonds authorized for that fiscal  
3 year for the purposes of the state educational  
4 facilities improvement special fund shall be deposited  
5 in the state treasury in each fiscal year to the  
6 credit of the state educational facilities improvement  
7 special fund for public school capital improvement  
8 program needs; ~~and~~

9 (2) A sum, not to exceed \$5,000,000, from all general  
10 excise tax revenues realized by the State shall be  
11 deposited in the state treasury in each fiscal year to  
12 the credit of the compound interest bond reserve  
13 fund~~[=]~~; and

14 (3) A sum, not to exceed the amount necessary to meet the  
15 obligations of integrated tax services and management  
16 system's performance-based contracts, may be retained  
17 and deposited into the state treasury to the credit of  
18 the integrated tax services and management special  
19 fund. The sum retained by the director of taxation  
20 for deposit into the integrated tax services and  
21 management special fund shall be limited to amounts  
22 appropriated by the legislature."



1 SECTION 8. Section 238-14, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "**§238-14 Taxes state realizations.** [~~All~~] (a) Except as  
4 provided in subsection (b), all taxes collected under this  
5 chapter shall be state realizations.

6 (b) The director of taxation shall pay the use taxes into  
7 the state treasury as a state realization; provided that a sum,  
8 not to exceed the amount necessary to meet the obligations of  
9 the integrated tax services and management system's performance-  
10 based contracts, may be retained and deposited into the state  
11 treasury to the credit of the integrated tax services and  
12 management special fund. The sum retained by the director of  
13 taxation for deposit into the integrated tax services and  
14 management special fund shall be limited to amounts appropriated  
15 by the legislature."

16 SECTION 9. The department of taxation shall execute the  
17 performance-based contracts and work assignments authorized  
18 under this part in a timely manner; provided that the integrated  
19 tax services and management system's enhancements and services  
20 authorized by this measure shall be executed no later than  
21 October 1, 2008.



PART III

1

2 SECTION 10. (a) Notwithstanding any other law to the

3 contrary, including any law requiring oversight of an executive

4 department's decisions relating to on-line portals or

5 internet-based access, the department of taxation shall utilize

6 performance-based contracts to enhance or acquire automated tax

7 systems, or both, including computer hardware and software, for

8 the implementation and administration of the taxes under title

9 14, Hawaii Revised Statutes, including:

10 (1) The city and county of Honolulu surcharge authorized

11 under section 46-16.8, Hawaii Revised Statutes, and

12 adopted by ordinance; and

13 (2) The Streamlined Sales Tax Project under Act 3, Special

14 Session Laws of Hawaii 2005 and related software

15 upgrade.

16 (b) For the purposes of this part:

17 "Performance-based contract" means a contract under which

18 compensation to the vendor shall be computed according to

19 performance standards established by the department of taxation.

20 Any performance-based contract entered into by the department of

21 taxation for the purposes established under subsection (a) shall

22 provide for the payment of fees:



1 (1) Based on a contractually specified amount of the  
2 increase in the amount of taxes, interest, and  
3 penalties collected and attributable to the  
4 implementation of the integrated tax services and  
5 management system post-implementation revenue-  
6 generating initiatives; or

7 (2) On a fixed-fee contract basis to be paid from the  
8 increase in the amount of taxes, interest, and  
9 penalties collected and attributable to the  
10 implementation of the integrated tax services and  
11 management system post-implementation revenue-  
12 generating initiatives.

13 (c) The State shall receive a permanent license to use the  
14 enhanced or automated tax systems upon full payment to the  
15 vendor.

16 (d) Notwithstanding any other law to the contrary, the  
17 department of taxation shall award the performance-based  
18 contract pursuant to the requirements of chapter 103D, Hawaii  
19 Revised Statutes.

20 SECTION 11. The director of taxation shall report to the  
21 legislature, no later than twenty days prior to the convening of  
22 every regular session, beginning with the 2009 regular session,



1 with respect to the status of the performance-based contract and  
2 shall provide an accounting of all moneys appropriated. The  
3 report shall include:

- 4 (1) Detailed information on the costs, benefits, and  
5 features of implementing the integrated tax services  
6 and management system post-implementation  
7 revenue-generating initiatives;
- 8 (2) The amount of increased tax, interest, and penalties  
9 collected that is attributable to the integrated tax  
10 services and management system post-implementation  
11 revenue-generating initiatives;
- 12 (3) The amount paid to the vendor or vendors contracted  
13 under this Act; and
- 14 (4) Any additional staffing or staffing shifts  
15 necessitated by the implementation of the integrated  
16 tax services and management system post-implementation  
17 revenue generating initiatives.

18 The report shall also include any other information from  
19 the preceding fiscal year that may assist the legislature in  
20 determining the efficacy of a contract executed under this Act,  
21 beginning with the fiscal year immediately preceding the fiscal  
22 year commencing on the effective date of this Act and continuing



1 until two complete fiscal years have elapsed following the full  
2 implementation of the integrated tax services and management  
3 system post-implementation revenue-generating initiatives.

4 SECTION 12. There is appropriated out of the general  
5 revenues of the State of Hawaii the sum of \$ or so  
6 much thereof as may be necessary for fiscal year 2008-2009 to be  
7 deposited into the integrated tax services and management  
8 special fund established pursuant to section 231- , Hawaii  
9 Revised Statutes, contained in section 3 of this Act.

10 SECTION 13. There is appropriated out of the integrated  
11 tax services and management special fund the sum of \$  
12 or so much thereof as may be necessary for fiscal year 2008-2009  
13 for the purposes of the integrated tax services and management  
14 special fund established pursuant to section 231- , Hawaii  
15 Revised Statutes, contained in section 3 of this Act.

16 The sum appropriated shall be expended by the department of  
17 taxation; provided that the department of taxation shall repay  
18 the general fund for the general fund appropriation for fiscal  
19 year 2007-2008 to the integrated tax services and management  
20 special fund established pursuant to section 231- , Hawaii  
21 Revised Statutes, no later than June 30, 2009.

22

**PART IV**



1 SECTION 14. The increased use of computers for personal  
2 purposes and in daily business operations has led to an increase  
3 in electronic and computer-based interactions with government.  
4 The department of taxation interacts with nearly every person in  
5 Hawaii on a regular basis. The department of taxation also  
6 regularly interacts with nonresident taxpayers and mainland-  
7 based businesses that routinely file tax information.

8 In response to the increase in interactions with  
9 out-of-state taxpayers and the increase in electronic tax  
10 filings, the legislature, in 1997, made electronic filing an  
11 acceptable means of carrying out a taxpayer's obligations under  
12 the law. Since this law was enacted, the ability to interact  
13 electronically has grown considerably, especially for  
14 businesses, nearly all of which have a computer and access to  
15 the Internet.

16 Within the next decade, a majority, if not all, of tax  
17 filings are predicted to be filed electronically. This will  
18 result in greater efficiencies for both the taxpayer and the  
19 State. In addition, the legislature, which is charged with the  
20 responsibility of overseeing the effectiveness of tax incentives  
21 and the efficacy of the tax system as a whole, will have access



1 to more specific data on Hawaii taxes if the tax data is  
2 captured electronically.

3 The amendments in this part will also ensure that taxpayers  
4 will be provided with sufficient notice and an opportunity to  
5 comment by requiring compliance with chapter 91, Hawaii Revised  
6 Statutes.

7 The purpose of this part is to increase electronic filing  
8 by requiring that the department of taxation, by rule, require  
9 electronic filing. It is the intent of the legislature, that  
10 within this broader mandate, the department of taxation shall:

- 11 (1) Focus its initial rulemaking on those taxes paid by  
12 businesses that the Internal Revenue Service requires  
13 to be filed electronically; and  
14 (2) Address increased voluntary electronic filing through  
15 the integrated tax services and management software  
16 upgrades.

17 SECTION 15. Section 231-8.5, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "[+]§231-8.5[+] **Electronic filing of tax returns.** (a)  
20 The department [~~may allow filing~~], by rules adopted pursuant to  
21 chapter 91, shall require taxpayers who are required to file  
22 their taxes electronically with the Internal Revenue Service, to



1 file by electronic, telephonic, or optical means [~~of~~] any tax  
2 return, application, report, or other document required under  
3 [~~the provisions of~~] title 14 administered by the department[-];  
4 provided that a service fee shall not be required. The date of  
5 filing shall be the date the tax return, application, report, or  
6 other document is transmitted to the department in a form and  
7 manner prescribed by departmental rules adopted pursuant to  
8 chapter 91.

9 (b) The department [~~may~~] shall determine alternative  
10 methods for [~~the~~] signing, subscribing, or verifying [~~of~~] a tax  
11 return, application, report, or other document that shall have  
12 the same validity and consequences as the actual signing by the  
13 taxpayer. The department shall increase voluntary electronic  
14 filing through integrated tax services and management, free  
15 software, and software upgrades; provided that a service fee  
16 shall not be required for businesses and individual taxpayers;  
17 provided further that the emphasis of voluntary electronic  
18 filing shall be on withholding taxes, general excise taxes, use  
19 taxes, and transient accommodations taxes.

20 (c) A filing under this section shall be treated in the  
21 same manner as a filing subject to the penalties under section  
22 231-39.





**Report Title:**

Department of Taxation; Special Fund; Electronic Filing

**Description:**

Establishes integrated tax services and management special fund to receive revenues from the integrated tax services and management system's post-implementation revenue-generating initiatives; provides that moneys in the fund will be used to pay for the integrated tax services and management system; requires that the department of taxation, by rule adopted pursuant to chapter 91, Hawaii Revised Statutes, require the electronic, telephonic, or optical filing of tax returns under certain conditions; provides that a service fee shall not be required, includes the Streamline Sales Tax Project and related software in the Department of Taxation's performance-based contracts. (SB3115 SD2)

