

JAN 23 2008

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# A BILL FOR AN ACT

RELATING TO EDUCATION.

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

1           SECTION 1. The legislature finds that the key to Hawaii's  
2 future success is a community filled with highly-educated,  
3 highly-qualified individuals to support the State's economy.  
4 The backbone of this endeavor is a strong public school system  
5 that equips our keiki with the knowledge, skills, and  
6 experiences necessary to succeed.

7           The legislature further finds that the public education  
8 system in the State is in dire need of increased funding not  
9 only to improve, expand, or grow new programs and facilities,  
10 but merely to address the pending backlog of infrastructure and  
11 facilities repair and maintenance projects in elementary,  
12 middle, and high schools throughout the State, as well as within  
13 the University of Hawaii system. Within the department of  
14 education, the backlog for repair and maintenance continues to  
15 be a problem. In 2001, the legislature appropriated funds to  
16 help mitigate the department of education's estimated  
17 \$640,000,000 backlog of repair and maintenance projects. In



1 2007, the estimated backlog of repair and maintenance projects  
2 was \$341,000,000, which included recurring major and minor  
3 repairs, ongoing cycle maintenance, service and contract  
4 maintenance, nonrecurring projects, and emergency repairs.  
5 Unfortunately, due in part to the governor's decision not to  
6 release \$110,000,000 previously approved by the legislature  
7 during past legislative sessions for repair and maintenance  
8 projects for the department of education, the backlog remains  
9 and continues to increase. The backlog has increased to  
10 approximately \$420,000,000 and is expected to increase by an  
11 additional \$75,000,000 during the upcoming fiscal year.

12 Similarly, at the University of Hawaii, a backlog of repair  
13 and maintenance projects has accumulated, due to the lack of  
14 general funds, currently totaling approximately \$257,000,000.  
15 Existing repair and maintenance projects include not only well-  
16 documented deficiencies such as major renovations necessary to  
17 Edmondson hall, athletic facilities including Cooke field, the  
18 college of education office, the University laboratory school,  
19 and Hamilton library, but also re-roofing, mechanical and  
20 electrical systems, resurfacing, repainting, and other  
21 improvements and projects to upgrade facilities at all  
22 university and community college campuses.



1 Facilities provide the centerpiece around which all other  
2 educational activities exist at higher education institutions.  
3 Well-maintained physical infrastructure and facilities at our  
4 higher education campuses that are functional, architecturally  
5 sound, aesthetically pleasing, and in compliance with building  
6 and safety codes support quality instruction, research, student,  
7 and community services programs. Therefore, it is imperative to  
8 reinvest in the university's physical plant to ensure that the  
9 physical infrastructure supports the mission of the institution.

10 In recent years, the legislature has passed significant  
11 initiatives to strengthen the public school system with  
12 resources, procedures, and opportunities to make effective  
13 change in the manner by which schools are organized and children  
14 learn. The Reinventing Education Act of 2004 directed funds to  
15 schools based on the needs of their populations, taking into  
16 account economic hardship, English as a second language, special  
17 needs, and mobility. Additionally, the legislature has provided  
18 a governance structure to charter schools to allow the decision  
19 makers to be closer to their constituency and placed an emphasis  
20 on learning academies and experiential or applied learning  
21 programs.



1 Adequate funding for the foregoing changes and initiatives  
2 continues to prove to be a challenge. Increased mandates  
3 resulting from the No Child Left Behind Act and the Felix  
4 consent decree, among others, have contributed to the lack of  
5 adequate funds to support public schools in the State. Despite  
6 these increased mandates, over the past few decades, the  
7 percentage of the budget allocated to education has consistently  
8 decreased as well.

9 In addition to the foregoing, the early education task  
10 force unveiled "Keiki first," a plan to enable eighty per cent  
11 of Hawaii's four-year-olds to attend preschool. This plan  
12 requires an infusion of new resources to equip our four-year-  
13 olds to enter kindergarten ready to learn. When fully  
14 implemented, for the eighty per cent goal, \$170,000,000 per year  
15 would be needed.

16 In a poll conducted by the Honolulu Advertiser in 2003,  
17 seventy-seven per cent of those polled indicated that they would  
18 pay more in taxes to improve the quality of public education.  
19 The poll also indicated that seventy-six per cent would pay more  
20 taxes to make repairs to public schools. A 2004 poll, conducted  
21 for Good Beginnings Alliance, indicated that sixty per cent of  
22 individuals polled favored a tax increase to support universal



1 preschool. The legislature believes that Hawaii residents have  
2 and will continue to demonstrate a willingness to support an  
3 increase in taxes to support public education in the State.

4 Tax reform, that not only includes increasing the general  
5 excise tax, but also provides tax relief, will benefit the  
6 majority of taxpayers, particularly in the lower income tax  
7 brackets, through an increased standard deduction amount,  
8 exemptions from the general excise tax for certain goods and  
9 services, and tax credits, as well as by ensuring the delivery  
10 of high-quality education and state-of-the-art facilities for  
11 our keiki.

12 The purpose of this Act is to increase the general excise  
13 tax, with increased revenues being allocated to support early  
14 education and education in the department of education public  
15 schools and the University of Hawaii. This Act shall also off-  
16 set the effects of the tax increase by:

- 17 (1) Establishing a general excise tax exemption for:  
18 (A) Tuition and child care services;  
19 (B) Food; and  
20 (C) Over-the-counter nonprescription medications;  
21 (2) Establishing tax credits, including:



1 (A) A tax credit for individuals who volunteer their  
2 services at public schools or the University of  
3 Hawaii; and

4 (B) An earned income tax credit; and

5 (3) Increasing the state standard deduction amounts.

6 SECTION 2. Chapter 235, Hawaii Revised Statutes, is  
7 amended by adding two new sections to be appropriately  
8 designated and to read as follows:

9 "§235- Credit for general volunteer services performed  
10 for the public schools or the University of Hawaii. (a) Each  
11 resident individual taxpayer who files an individual income tax  
12 return for a taxable year, and who is not claimed or is not  
13 otherwise eligible to be claimed as a dependent by another for  
14 state or federal income tax purposes, may claim a credit against  
15 the tax otherwise due under this chapter in the amount of  
16 \$ \_\_\_\_\_, provided that the resident performed general  
17 volunteer services for at least \_\_\_\_\_ hours in any taxable year  
18 for public schools or the University of Hawaii.

19 (b) Notwithstanding subsection (a), the credit shall not  
20 exceed the amount of tax owed by the resident for any taxable  
21 year; nor shall any credit be granted for volunteer services  
22 provided by a resident that are normally and customarily



1 performed by a paid employee of public schools or the University  
2 of Hawaii for which the resident is providing services.

3 (c) The director shall provide by rule a method of  
4 documenting the actual performance by a resident of the hours of  
5 general volunteer service required to establish eligibility for  
6 the tax credit authorized in this section. Only general  
7 volunteer services performed for public schools or the  
8 University of Hawaii shall qualify for the credit.

9 §235- Earned income tax credit. (a) Each resident  
10 individual taxpayer who:

11 (1) Files an individual income tax return for a taxable  
12 year; and

13 (2) Is not claimed or is not eligible to be claimed as a  
14 dependent by another taxpayer for income tax purposes;

15 may claim a refundable earned income tax credit. The tax  
16 credit, for the appropriate taxable year, shall be equal to  
17 twenty per cent of the earned income credit allowed under  
18 Section 32 of the Internal Revenue Code and reported as such on  
19 the resident individual's federal income tax return.

20 (b) In the case of a part-year resident, the tax credit  
21 shall equal the amount of the tax credit calculated in  
22 subsection (a) multiplied by the ratio of adjusted gross income



1 attributed to this State to the entire adjusted gross income  
2 computed without regard to source in the State pursuant to  
3 section 235-5.

4 (c) For purposes of claiming the tax credit allowed by  
5 this section, a resident individual taxpayer shall use the same  
6 filing status on the taxpayer's Hawaii income tax return as used  
7 on the taxpayer's federal income tax return for the taxable  
8 year. In the case of a husband and wife filing separately, the  
9 credit allowed may be applied against the income tax liability  
10 of either, or divided between them, as they elect.

11 (d) The earned income tax credit shall be reduced by other  
12 tax credits allowed under this chapter. If the tax credit under  
13 this section exceeds the taxpayer's income tax liability, the  
14 excess of tax credits over liability shall be refunded to the  
15 taxpayer; provided that no refund or payment on account of the  
16 tax credits allowed by this section shall be made for amounts  
17 less than \$1.

18 (e) All claims, including any amended claims for tax  
19 credits under this section, shall be filed on or before the end  
20 of the twelfth month following the close of the taxable year for  
21 which the tax credit may be claimed. Failure to comply with





1 this subsection shall constitute a waiver of the right to claim  
2 the tax credit.

3 (f) The director of taxation:

4 (1) Shall prepare such forms as may be necessary to claim  
5 a tax credit under this section;

6 (2) May require proof of the claim for the tax credit;

7 (3) Shall alert eligible taxpayers of the tax credit using  
8 appropriate and available means;

9 (4) Shall prepare an annual report to the governor and  
10 legislature containing:

11 (A) The number of credits granted for the prior  
12 calendar year;

13 (B) The total amount of the credits granted; and

14 (C) The average value of the credits granted to  
15 taxpayers whose earned income falls within  
16 various income ranges; and

17 (5) May adopt rules pursuant to chapter 91 to effectuate  
18 this section.

19 (g) On a regular basis, the director of taxation, with the  
20 assistance of the director of human services, shall calculate  
21 the value of the refundable portion of the tax credits provided  
22 under this section that qualifies for reimbursement from



1 temporary assistance for needy families funds. The director of  
2 taxation shall provide the director of human services with such  
3 tax credit records and information as are necessary to support  
4 draws of funds. The director of human services shall reimburse  
5 the director of taxation for the costs of providing the  
6 information required by this section.

7 (h) Temporary assistance for needy families funds are  
8 appropriated, as provided by law in the Temporary Assistance for  
9 Needy Families Authorization Act, to the director of human  
10 services based on calculations under subsection (g) that qualify  
11 for reimbursement from the temporary assistance for needy  
12 families funds for income tax refunds. The draws of temporary  
13 assistance for needy families funds shall be made each fiscal  
14 quarter based on calculations of credits authorized by the  
15 director of taxation and shall be deposited to the credit of the  
16 general fund."

17 SECTION 3. Chapter 237, Hawaii Revised Statutes, is  
18 amended by adding three new sections to be appropriately  
19 designated and to read as follows:

20 "§237- Exemption for tuition and child care services.

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



1 or income arising from school tuition, workforce training, and  
2 child care services.

3 (b) For purposes of this section:

4 (1) "School tuition" shall mean tuition costs paid for  
5 enrollment in elementary, secondary, or post-secondary  
6 courses or institutions;

7 (2) "Workforce training" shall mean post-secondary  
8 activities, including seminars, workshops, courses, or  
9 customized training, that develop or enhance the  
10 skills of existing employees or members of any  
11 business or industry and shall also include any  
12 training provided to individuals, whether employed or  
13 unemployed, that is designed to meet the employment  
14 needs of the student or employer by enhancing  
15 occupational, technical, or soft (communication,  
16 computational, and interpersonal) skills;

17 (3) "Child care services" shall mean nonprofit or for-  
18 profit organizations or individuals providing center-  
19 based or family child care in, including but not  
20 limited to, child day care centers, including  
21 preschools, child care centers, Head Start centers,



1           in-home family child care, before- and after-school  
2           programs, and private summer school programs.

3           §237- Exemption for food. (a) There shall be exempted  
4 from, and excluded from the measure of, the taxes imposed by  
5 this chapter all of the gross proceeds or income arising from  
6 the manufacture, production, packaging, and sale of food items  
7 within the State.

8           (b) As used in this section, "food items" means any food  
9 or food product for home consumption except alcoholic beverages,  
10 tobacco, and food products prepared at the place of sale or at  
11 another location and sold primarily for immediate or nearly  
12 immediate consumption. In the case of those persons who are  
13 sixty-five years of age or older or who receive supplemental  
14 security income benefits under Title XVI of the Social Security  
15 Act (42 U.S.C. §1381 et. seq.), and their spouses, "food items"  
16 includes meals prepared by and served in senior citizens'  
17 centers, apartment buildings occupied primarily by senior  
18 citizens, private nonprofit establishments (eating or otherwise)  
19 that feed senior citizens, private establishments that contract  
20 with the appropriate agency of the State to offer meals for  
21 senior citizens at concessional prices, and meals prepared for



1 and served to residents of federally subsidized housing for the  
2 elderly.

3 The phrase "food items" may be further defined by the  
4 department of taxation by rule through the enumeration of items  
5 in rules or informational releases; provided that the department  
6 of taxation shall consult with the federal Food and Nutrition  
7 Service of the United States Department of Agriculture in  
8 further defining the phrase "food items" for food stamp  
9 purposes.

10 §237- Exemption for over-the-counter nonprescription  
11 medications. (a) There shall be exempted from, and excluded  
12 from the measure of, the taxes imposed by this chapter all of  
13 the gross proceeds or income arising from the sale of over-the-  
14 counter nonprescription medications.

15 (b) For purposes of this section, "over-the-counter  
16 nonprescription medications" means drugs or medications that can  
17 be purchased without a prescription (for example, aspirin, cough  
18 syrup, and laxatives)."

19 SECTION 4. Chapter 302A, Hawaii Revised Statutes, is  
20 amended by adding two new sections to be appropriately  
21 designated and to read as follows:



1       "302A-A Education funding commission. (a) There is  
2 established within the department of education, for  
3 administrative purposes only, the education funding commission.  
4 The commission shall consist of seven members appointed by the  
5 governor pursuant to section 26-34; provided that:

6       (1) Three members shall be appointed from a list of  
7 nominees submitted by the president of the senate and  
8 three members shall be appointed from a list of  
9 nominees submitted by the speaker of the house of  
10 representatives;

11       (2) Vacancies in these positions shall be filled in the  
12 same manner in which they were appointed; and

13       (3) Appointees shall include individuals representing the  
14 department of education, the University of Hawaii, the  
15 business community, and the Hawaii P-20 initiative.

16 The members of the commission shall serve without compensation  
17 but shall be reimbursed for expenses necessary for the  
18 performance of their duties.

19       (b) The commission shall establish dollar or percentage  
20 allocations, or a combination thereof, for moneys deposited into  
21 the education special fund for the following four-year period;  
22 provided that funds shall be allocated to the following purposes



1 to support early education, public schools, and the University  
2 of Hawaii:

3 (1) Repair and maintenance projects;

4 (2) Capital improvement projects;

5 (3) Learning materials and technology and equipment;

6 (4) The base per pupil allocation in the weighted student  
7 formula; and

8 (5) Workforce training.

9 (c) The commission may seek assistance from the department  
10 and any other department or agency in conducting its review and  
11 formulating its allocation formula. All agencies shall fully  
12 cooperate with the commission and provide any necessary  
13 information to the commission upon request.

14 (d) The commission shall submit a report of its findings  
15 and its fund allocations for the following four-year period to  
16 the legislature and the governor, no later than twenty days  
17 prior to the convening of the regular session of the legislature  
18 every four years, beginning with the regular session of 2010;  
19 provided that the commission shall meet at least annually  
20 thereafter and prepare an annual report for the legislature and  
21 the governor, no later than twenty days prior to the convening



1 of each regular session on the allocation and utilization of  
2 funds, including the actual related usage of funds.

3 (e) The new allocation distributions shall become  
4 effective July 1 of the next fiscal year and July 1 every four  
5 years thereafter.

6 §302A-B Education special fund. (a) There is created in  
7 the treasury of the State the education special fund, into which  
8 shall be deposited general excise tax revenues collected by the  
9 department of taxation under section 237-31.

10 (b) The education special fund shall be used solely for  
11 the support of early education, public schools, and the  
12 University of Hawaii. The funds shall be allocated in the  
13 manner established by the education funding commission."

14 SECTION 5. Section 235-2.4, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 **"§235-2.4 Operation of certain Internal Revenue Code**  
17 **provisions; sections 63 to 530. (a) Section 63 (with respect**  
18 **to taxable income defined) of the Internal Revenue Code shall be**  
19 **operative for the purposes of this chapter, except that the**  
20 **standard deduction amount in section 63(c) of the Internal**  
21 **Revenue Code shall instead mean:**

22 (1) [~~\$4,000~~] \$8,000 in the case of:





- 1 (A) A joint return as provided by section 235-93; or
- 2 (B) A surviving spouse (as defined in section 2(a) of
- 3 the Internal Revenue Code);
- 4 (2) [~~\$2,920~~] \$5,840 in the case of a head of household (as
- 5 defined in section 2(b) of the Internal Revenue Code);
- 6 (3) [~~\$2,000~~] \$4,000 in the case of an individual who is
- 7 not married and who is not a surviving spouse or head
- 8 of household; or
- 9 (4) [~~\$2,000~~] \$4,000 in the case of a married individual
- 10 filing a separate return.

11 Section 63(c)(4) shall not be operative in this State.

12 Section 63(c)(5) shall be operative, except that the limitation

13 on basic standard deduction in the case of certain dependents

14 shall be the greater of [~~\$500~~] \$1,000 or such individual's

15 earned income. Section 63(f) shall not be operative in this

16 State.

17 The standard deduction amount for nonresidents shall be

18 calculated pursuant to section 235-5."

19 SECTION 6. Section 237-13, Hawaii Revised Statutes, is

20 amended to read as follows:

21 "**§237-13 Imposition of tax.** There is hereby levied and

22 shall be assessed and collected annually privilege taxes against

1 persons on account of their business and other activities in the  
2 State measured by the application of rates against values of  
3 products, gross proceeds of sales, or gross income, whichever is  
4 specified, as follows:

5 (1) Tax on manufacturers.

6 (A) Upon every person engaging or continuing within  
7 the State in the business of manufacturing,  
8 including compounding, canning, preserving,  
9 packing, printing, publishing, milling,  
10 processing, refining, or preparing for sale,  
11 profit, or commercial use, either directly or  
12 through the activity of others, in whole or in  
13 part, any article or articles, substance or  
14 substances, commodity or commodities, the amount  
15 of the tax to be equal to the value of the  
16 articles, substances, or commodities,  
17 manufactured, compounded, canned, preserved,  
18 packed, printed, milled, processed, refined, or  
19 prepared for sale, as shown by the gross proceeds  
20 derived from the sale thereof by the manufacturer  
21 or person compounding, preparing, or printing  
22 them, multiplied by one-half of one per cent.



1           (B) The measure of the tax on manufacturers is the  
2           value of the entire product for sale, regardless  
3           of the place of sale or the fact that deliveries  
4           may be made to points outside the State.

5           (C) If any person liable for the tax on manufacturers  
6           ships or transports the person's product, or any  
7           part thereof, out of the State, whether in a  
8           finished or unfinished condition, or sells the  
9           same for delivery to points outside the State  
10          (for example, consigned to a mainland purchaser  
11          via common carrier f.o.b. Honolulu), the value of  
12          the products in the condition or form in which  
13          they exist immediately before entering interstate  
14          or foreign commerce, determined as hereinafter  
15          provided, shall be the basis for the assessment  
16          of the tax imposed by this paragraph. This tax  
17          shall be due and payable as of the date of entry  
18          of the products into interstate or foreign  
19          commerce, whether the products are then sold or  
20          not. The department shall determine the basis  
21          for assessment, as provided by this paragraph, as  
22          follows:



- 1 (i) If the products at the time of their entry  
2 into interstate or foreign commerce already  
3 have been sold, the gross proceeds of sale,  
4 less the transportation expenses, if any,  
5 incurred in realizing the gross proceeds for  
6 transportation from the time of entry of the  
7 products into interstate or foreign  
8 commerce, including insurance and storage in  
9 transit, shall be the measure of the value  
10 of the products;
- 11 (ii) If the products have not been sold at the  
12 time of their entry into interstate or  
13 foreign commerce, and in cases governed by  
14 clause (i) in which the products are sold  
15 under circumstances such that the gross  
16 proceeds of sale are not indicative of the  
17 true value of the products, the value of the  
18 products constituting the basis for  
19 assessment shall correspond as nearly as  
20 possible to the gross proceeds of sales for  
21 delivery outside the State, adjusted as  
22 provided in clause (i), or if sufficient



1 data are not available, sales in the State,  
2 of similar products of like quality and  
3 character and in similar quantities, made by  
4 the taxpayer (unless not indicative of the  
5 true value) or by others. Sales outside the  
6 State, adjusted as provided in clause (i),  
7 may be considered when they constitute the  
8 best available data. The department shall  
9 prescribe uniform and equitable rules for  
10 ascertaining the values;

11 (iii) At the election of the taxpayer and with the  
12 approval of the department, the taxpayer may  
13 make the taxpayer's returns under clause (i)  
14 even though the products have not been sold  
15 at the time of their entry into interstate  
16 or foreign commerce; and

17 (iv) In all cases in which products leave the  
18 State in an unfinished condition, the basis  
19 for assessment shall be adjusted so as to  
20 deduct the portion of the value as is  
21 attributable to the finishing of the goods  
22 outside the State.



1           (2) Tax on business of selling tangible personal property;  
2           producing.

3           (A) Upon every person engaging or continuing in the  
4           business of selling any tangible personal  
5           property whatsoever (not including, however,  
6           bonds or other evidence of indebtedness, or  
7           stocks), there is likewise hereby levied, and  
8           shall be assessed and collected, a tax equivalent  
9           to [~~four~~] five per cent of the gross proceeds of  
10          sales of the business; provided that insofar as  
11          the sale of tangible personal property is a  
12          wholesale sale under section 237-4(a)(8)(B), the  
13          sale shall be subject to section 237-13.3. Upon  
14          every person engaging or continuing within this  
15          State in the business of a producer, the tax  
16          shall be equal to one-half of one per cent of the  
17          gross proceeds of sales of the business, or the  
18          value of the products, for sale, if sold for  
19          delivery outside the State or shipped or  
20          transported out of the State, and the value of  
21          the products shall be determined in the same



1 manner as the value of manufactured products  
2 covered in the cases under paragraph (1)(C).

3 (B) Gross proceeds of sales of tangible property in  
4 interstate and foreign commerce shall constitute  
5 a part of the measure of the tax imposed on  
6 persons in the business of selling tangible  
7 personal property, to the extent, under the  
8 conditions, and in accordance with the provisions  
9 of the Constitution of the United States and the  
10 Acts of the Congress of the United States which  
11 may be now in force or may be hereafter adopted,  
12 and whenever there occurs in the State an  
13 activity to which, under the Constitution and  
14 Acts of Congress, there may be attributed gross  
15 proceeds of sales, the gross proceeds shall be so  
16 attributed.

17 (C) No manufacturer or producer, engaged in such  
18 business in the State and selling the  
19 manufacturer's or producer's products for  
20 delivery outside of the State (for example,  
21 consigned to a mainland purchaser via common  
22 carrier f.o.b. Honolulu), shall be required to



1 pay the tax imposed in this chapter for the  
2 privilege of so selling the products, and the  
3 value or gross proceeds of sales of the products  
4 shall be included only in determining the measure  
5 of the tax imposed upon the manufacturer or  
6 producer.

7 (D) When a manufacturer or producer, engaged in such  
8 business in the State, also is engaged in selling  
9 the manufacturer's or producer's products in the  
10 State at wholesale, retail, or in any other  
11 manner, the tax for the privilege of engaging in  
12 the business of selling the products in the State  
13 shall apply to the manufacturer or producer as  
14 well as the tax for the privilege of  
15 manufacturing or producing in the State, and the  
16 manufacturer or producer shall make the returns  
17 of the gross proceeds of the wholesale, retail,  
18 or other sales required for the privilege of  
19 selling in the State, as well as making the  
20 returns of the value or gross proceeds of sales  
21 of the products required for the privilege of  
22 manufacturing or producing in the State. The





1 manufacturer or producer shall pay the tax  
2 imposed in this chapter for the privilege of  
3 selling its products in the State, and the value  
4 or gross proceeds of sales of the products, thus  
5 subjected to tax, may be deducted insofar as  
6 duplicated as to the same products by the measure  
7 of the tax upon the manufacturer or producer for  
8 the privilege of manufacturing or producing in  
9 the State; provided that no producer of  
10 agricultural products who sells the products to a  
11 purchaser who will process the products outside  
12 the State shall be required to pay the tax  
13 imposed in this chapter for the privilege of  
14 producing or selling those products.

15 (E) A taxpayer selling to a federal cost-plus  
16 contractor may make the election provided for by  
17 paragraph (3)(C), and in that case the tax shall  
18 be computed pursuant to the election,  
19 notwithstanding this paragraph or paragraph (1)  
20 to the contrary.

21 (F) The department, by rule, may require that a  
22 seller take from the purchaser of tangible



1 personal property a certificate, in a form  
2 prescribed by the department, certifying that the  
3 sale is a sale at wholesale; provided that:

- 4 (i) Any purchaser who furnishes a certificate  
5 shall be obligated to pay to the seller,  
6 upon demand, the amount of the additional  
7 tax that is imposed upon the seller whenever  
8 the sale in fact is not at wholesale; and  
9 (ii) The absence of a certificate in itself shall  
10 give rise to the presumption that the sale  
11 is not at wholesale unless the sales of the  
12 business are exclusively at wholesale.

13 (3) Tax upon contractors.

14 (A) Upon every person engaging or continuing within  
15 the State in the business of contracting, the tax  
16 shall be equal to [~~four~~] five per cent of the  
17 gross income of the business.

18 (B) In computing the tax levied under this paragraph,  
19 there shall be deducted from the gross income of  
20 the taxpayer so much thereof as has been included  
21 in the measure of the tax levied under  
22 subparagraph (A), on:



- 1           (i) Another taxpayer who is a contractor, as
- 2                 defined in section 237-6;
- 3           (ii) A specialty contractor, duly licensed by the
- 4                 department of commerce and consumer affairs
- 5                 pursuant to section 444-9, in respect of the
- 6                 specialty contractor's business; or
- 7           (iii) A specialty contractor who is not licensed
- 8                 by the department of commerce and consumer
- 9                 affairs pursuant to section 444-9, but who
- 10                performs contracting activities on federal
- 11                military installations and nowhere else in
- 12                this State;

13           provided that any person claiming a deduction  
14           under this paragraph shall be required to show in  
15           the person's return the name and general excise  
16           number of the person paying the tax on the amount  
17           deducted by the person.

18           (C) In computing the tax levied under this paragraph  
19           against any federal cost-plus contractor, there  
20           shall be excluded from the gross income of the  
21           contractor so much thereof as fulfills the  
22           following requirements:



- 1 (i) The gross income exempted shall constitute  
2 reimbursement of costs incurred for  
3 materials, plant, or equipment purchased  
4 from a taxpayer licensed under this chapter,  
5 not exceeding the gross proceeds of sale of  
6 the taxpayer on account of the transaction;  
7 and
- 8 (ii) The taxpayer making the sale shall have  
9 certified to the department that the  
10 taxpayer is taxable with respect to the  
11 gross proceeds of the sale, and that the  
12 taxpayer elects to have the tax on gross  
13 income computed the same as upon a sale to  
14 the state government.
- 15 (D) A person who, as a business or as a part of a  
16 business in which the person is engaged, erects,  
17 constructs, or improves any building or  
18 structure, of any kind or description, or makes,  
19 constructs, or improves any road, street,  
20 sidewalk, sewer, or water system, or other  
21 improvements on land held by the person (whether  
22 held as a leasehold, fee simple, or otherwise),



1           upon the sale or other disposition of the land or  
2           improvements, even if the work was not done  
3           pursuant to a contract, shall be liable to the  
4           same tax as if engaged in the business of  
5           contracting, unless the person shows that at the  
6           time the person was engaged in making the  
7           improvements the person intended, and for the  
8           period of at least one year after completion of  
9           the building, structure, or other improvements  
10          the person continued to intend to hold and not  
11          sell or otherwise dispose of the land or  
12          improvements. The tax in respect of the  
13          improvements shall be measured by the amount of  
14          the proceeds of the sale or other disposition  
15          that is attributable to the erection,  
16          construction, or improvement of such building or  
17          structure, or the making, constructing, or  
18          improving of the road, street, sidewalk, sewer,  
19          or water system, or other improvements. The  
20          measure of tax in respect of the improvements  
21          shall not exceed the amount which would have been  
22          taxable had the work been performed by another,



1 subject as in other cases to the deductions  
2 allowed by subparagraph (B). Upon the election  
3 of the taxpayer, this paragraph may be applied  
4 notwithstanding that the improvements were not  
5 made by the taxpayer, or were not made as a  
6 business or as a part of a business, or were made  
7 with the intention of holding the same. However,  
8 this paragraph shall not apply in respect of any  
9 proceeds that constitute or are in the nature of  
10 rent; all such gross income shall be taxable  
11 under paragraph (9); provided that insofar as the  
12 business of renting or leasing real property  
13 under a lease is taxed under section 237-16.5,  
14 the tax shall be levied by section 237-16.5.

15 (4) Tax upon theaters, amusements, radio broadcasting  
16 stations, etc.

17 (A) Upon every person engaging or continuing within  
18 the State in the business of operating a theater,  
19 opera house, moving picture show, vaudeville,  
20 amusement park, dance hall, skating rink, radio  
21 broadcasting station, or any other place at which  
22 amusements are offered to the public, the tax



1 shall be equal to [~~four~~] five per cent of the  
2 gross income of the business, and in the case of  
3 a sale of an amusement at wholesale under section  
4 237-4(a)(13), the tax shall be subject to section  
5 237-13.3.

6 (B) The department may require that the person  
7 rendering an amusement at wholesale take from the  
8 licensed seller a certificate, in a form  
9 prescribed by the department, certifying that the  
10 sale is a sale at wholesale; provided that:

11 (i) Any licensed seller who furnishes a  
12 certificate shall be obligated to pay to the  
13 person rendering the amusement, upon demand,  
14 the amount of additional tax that is imposed  
15 upon the seller whenever the sale is not at  
16 wholesale; and

17 (ii) The absence of a certificate in itself shall  
18 give rise to the presumption that the sale  
19 is not at wholesale unless the person  
20 rendering the sale is exclusively rendering  
21 the amusement at wholesale.



1           (5) Tax upon sales representatives, etc. Upon every  
2           person classified as a representative or purchasing  
3           agent under section 237-1, engaging or continuing  
4           within the State in the business of performing  
5           services for another, other than as an employee, there  
6           is likewise hereby levied and shall be assessed and  
7           collected a tax equal to [~~four~~] five per cent of the  
8           commissions and other compensation attributable to the  
9           services so rendered by the person.

10          (6) Tax on service business.

11           (A) Upon every person engaging or continuing within  
12           the State in any service business or calling  
13           including professional services not otherwise  
14           specifically taxed under this chapter, there is  
15           likewise hereby levied and shall be assessed and  
16           collected a tax equal to [~~four~~] five per cent of  
17           the gross income of the business, and in the case  
18           of a wholesaler under section 237-4(a)(10), the  
19           tax shall be equal to one-half of one per cent of  
20           the gross income of the business.

21           Notwithstanding the foregoing, a wholesaler under





1 section 237-4(a)(10) shall be subject to section  
2 237-13.3.

3 (B) The department may require that the person  
4 rendering a service at wholesale take from the  
5 licensed seller a certificate, in a form  
6 prescribed by the department, certifying that the  
7 sale is a sale at wholesale; provided that:

8 (i) Any licensed seller who furnishes a  
9 certificate shall be obligated to pay to the  
10 person rendering the service, upon demand,  
11 the amount of additional tax that is imposed  
12 upon the seller whenever the sale is not at  
13 wholesale; and

14 (ii) The absence of a certificate in itself shall  
15 give rise to the presumption that the sale  
16 is not at wholesale unless the person  
17 rendering the sale is exclusively rendering  
18 services at wholesale.

19 (C) Where any person engaging or continuing within  
20 the State in any service business or calling  
21 renders those services upon the order of or at  
22 the request of another taxpayer who is engaged in



1 the service business and who, in fact, acts as or  
2 acts in the nature of an intermediary between the  
3 person rendering those services and the ultimate  
4 recipient of the benefits of those services, so  
5 much of the gross income as is received by the  
6 person rendering the services shall be subjected  
7 to the tax at the rate of one-half of one per  
8 cent and all of the gross income received by the  
9 intermediary from the principal shall be  
10 subjected to a tax at the rate of [~~four~~] five per  
11 cent. Where the taxpayer is subject to both this  
12 subparagraph and to the lowest tax rate under  
13 subparagraph (A), the taxpayer shall be taxed  
14 under this subparagraph. This subparagraph shall  
15 be repealed on January 1, 2006.

16 (D) Where any person is engaged in the business of  
17 selling interstate or foreign common carrier  
18 telecommunication services within and without the  
19 State, other than as a home service provider, the  
20 tax shall be imposed on that portion of gross  
21 income received by a person from service which is  
22 originated or terminated in this State and is



1 charged to a telephone number, customer, or  
2 account in this State notwithstanding any other  
3 state law (except for the exemption under section  
4 237-23(a)(1)) to the contrary. If, under the  
5 Constitution and laws of the United States, the  
6 entire gross income as determined under this  
7 paragraph of a business selling interstate or  
8 foreign common carrier telecommunication services  
9 cannot be included in the measure of the tax, the  
10 gross income shall be apportioned as provided in  
11 section 237-21; provided that the apportionment  
12 factor and formula shall be the same for all  
13 persons providing those services in the State.

14 (E) Where any person is engaged in the business of a  
15 home service provider, the tax shall be imposed  
16 on the gross income received or derived from  
17 providing interstate or foreign mobile  
18 telecommunications services to a customer with a  
19 place of primary use in this State when such  
20 services originate in one state and terminate in  
21 another state, territory, or foreign country;  
22 provided that all charges for mobile



1 telecommunications services which are billed by  
2 or for the home service provider are deemed to be  
3 provided by the home service provider at the  
4 customer's place of primary use, regardless of  
5 where the mobile telecommunications originate,  
6 terminate, or pass through; provided further that  
7 the income from charges specifically derived from  
8 interstate or foreign mobile telecommunications  
9 services, as determined by books and records that  
10 are kept in the regular course of business by the  
11 home service provider in accordance with section  
12 239-24, shall be apportioned under any  
13 apportionment factor or formula adopted under  
14 section 237-13(6)(D). Gross income shall not  
15 include:

16 (i) Gross receipts from mobile  
17 telecommunications services provided to a  
18 customer with a place of primary use outside  
19 this State;

20 (ii) Gross receipts from mobile  
21 telecommunications services that are subject  
22 to the tax imposed by chapter 239;



- 1                   (iii) Gross receipts from mobile
- 2                               telecommunications services taxed under
- 3                               section 237-13.8; and
- 4                   (iv) Gross receipts of a home service provider
- 5                               acting as a serving carrier providing mobile
- 6                               telecommunications services to another home
- 7                               service provider's customer.

8                   For the purposes of this paragraph, "charges for

9                               mobile telecommunications services", "customer",

10                              "home service provider", "mobile

11                              telecommunications services", "place of primary

12                              use", and "serving carrier" have the same meaning

13                              as in section 239-22.

14           (7) Tax on insurance producers. Upon every person engaged

15                              as a licensed producer pursuant to chapter 431, there

16                              is hereby levied and shall be assessed and collected a

17                              tax equal to 0.15 per cent of the commissions due to

18                              that activity.

19           (8) Tax on receipts of sugar benefit payments. Upon the

20                              amounts received from the United States government by

21                              any producer of sugar (or the producer's legal

22                              representative or heirs), as defined under and by

1 virtue of the Sugar Act of 1948, as amended, or other  
2 Acts of the Congress of the United States relating  
3 thereto, there is hereby levied a tax of one-half of  
4 one per cent of the gross amount received; provided  
5 that the tax levied hereunder on any amount so  
6 received and actually disbursed to another by a  
7 producer in the form of a benefit payment shall be  
8 paid by the person or persons to whom the amount is  
9 actually disbursed, and the producer actually making a  
10 benefit payment to another shall be entitled to claim  
11 on the producer's return a deduction from the gross  
12 amount taxable hereunder in the sum of the amount so  
13 disbursed. The amounts taxed under this paragraph  
14 shall not be taxable under any other paragraph,  
15 subsection, or section of this chapter.

16 (9) Tax on other business. Upon every person engaging or  
17 continuing within the State in any business, trade,  
18 activity, occupation, or calling not included in the  
19 preceding paragraphs or any other provisions of this  
20 chapter, there is likewise hereby levied and shall be  
21 assessed and collected, a tax equal to [~~four~~] five per  
22 cent of the gross income thereof. In addition, the



1 rate prescribed by this paragraph shall apply to a  
2 business taxable under one or more of the preceding  
3 paragraphs or other provisions of this chapter, as to  
4 any gross income thereof not taxed thereunder as gross  
5 income or gross proceeds of sales or by taxing an  
6 equivalent value of products, unless specifically  
7 exempted."

8 SECTION 7. Section 237-15, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 "**§237-15 Technicians.** When technicians supply dentists or  
11 physicians with dentures, orthodontic devices, braces, and  
12 similar items which have been prepared by the technician in  
13 accordance with specifications furnished by the dentist or  
14 physician, and such items are to be used by the dentist or  
15 physician in the dentist's or physician's professional practice  
16 for a particular patient who is to pay the dentist or physician  
17 for the same as a part of the dentist's or physician's  
18 professional services, the technician shall be taxed as though  
19 the technician were a manufacturer selling a product to a  
20 licensed retailer, rather than at the rate of [~~four~~] five per  
21 cent which is generally applied to professions and services."



1 SECTION 8. Section 237-31, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§237-31 **Remittances.** All remittances of taxes imposed by  
4 this chapter shall be made by money, bank draft, check,  
5 cashier's check, money order, or certificate of deposit to the  
6 office of the department of taxation to which the return was  
7 transmitted. The department shall issue its receipts therefor  
8 to the taxpayer and shall pay the moneys into the state treasury  
9 as a state realization, to be kept and accounted for as provided  
10 by law; provided that:

11 (1) The sum from all general excise tax revenues realized  
12 by the State that represents the difference between  
13 \$90,000,000 and the proceeds from the sale of any  
14 general obligation bonds authorized for that fiscal  
15 year for the purposes of the state educational  
16 facilities improvement special fund shall be deposited  
17 in the state treasury in each fiscal year to the  
18 credit of the state educational facilities improvement  
19 special fund for public school capital improvement  
20 program needs; [~~and~~]

21 (2) A sum, not to exceed \$5,000,000, from all general  
22 excise tax revenues realized by the State shall be





1 deposited in the state treasury in each fiscal year to  
2 the credit of the compound interest bond reserve  
3 fund[-]; and

4 (3) A sum, not to exceed \$ \_\_\_\_\_, shall be deposited  
5 in the education special fund under section 302A-B in  
6 each fiscal year in quarterly allotments."

7 SECTION 9. In codifying the new sections added by section  
8 4 of this Act, the revisor of statutes shall substitute  
9 appropriate section numbers for the letters used in designating  
10 the new sections in this Act.

11 SECTION 10. Statutory material to be repealed is bracketed  
12 and stricken. New statutory material is underscored.

13 SECTION 11. This Act, upon its approval, shall apply to  
14 taxable years beginning after December 31, 2007; provided that  
15 amendments made to section 237-31, Hawaii Revised Statutes, by  
16 section 8 of this Act shall not be repealed when that section is  
17 reenacted on June 30, 2008, pursuant to section 4 of Act 304,  
18 Session Laws of Hawaii 2006.

19

INTRODUCED BY: Norman Sakemofu



**Report Title:**

GET; Increase; Exemptions; Education Funding; EITC; Volunteers Tax Credit; Standard Deduction

**Description:**

Increases the general excise tax to fund state education costs; exempts groceries, over-the-counter nonprescription medications, education and child care costs from the general excise tax; establishes a state earned income tax credit and a volunteer tax credit for individual taxpayers providing volunteer services in public schools. Increases the standard deduction.

