

---

---

# A BILL FOR AN ACT

RELATING TO TAXATION.

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

1           SECTION 1. The legislature finds that, each year  
2 approximately \$1,000,000,000 is given away in tax dollars in the  
3 form of tax exemptions, deductions, and credits to certain  
4 segments of the community. While many, if not all are for good  
5 reasons and programs, these tax "giveaways" are perpetual and  
6 require little or no legislative oversight. This is an unfair  
7 system, considering that core programs such as education, public  
8 safety, health care programs, including the medicare and  
9 medicaid programs, and others must face legislative scrutiny  
10 before receiving continued funding.

11           The purpose of this Act is to establish a sunrise and  
12 sunset review of certain tax exemptions, deductions, and credits  
13 to require legislative review of these programs to ensure their  
14 fiscal integrity and provide good state fiscal policy.

15           SECTION 2. Chapter 231, Hawaii Revised Statutes, is  
16 amended by adding two new sections to be appropriately  
17 designated and to read as follows:



1        "§231-        Erroneous claim for refund, exemption, or  
2 credit. Unless a person making a claim for a tax refund,  
3 exemption, or credit in an excessive amount can prove that the  
4 person has a reasonable basis for making the claim, the person  
5 shall be liable for a penalty in an amount equal to twenty per  
6 cent of the excessive amount. For the purposes of this section,  
7 the term "excessive amount" means the amount that exceeds the  
8 amount of a claim for a refund, exemption, or credit that is  
9 allowed by law.

10        §231-        Tax credits and exemptions; evaluation; report.

11        (a) The department shall perform an evaluation of the tax  
12 credits or tax exemptions provided in title 14 and scheduled for  
13 repeal in section 3 of Act        , Session Laws of Hawaii 2009.

14        (b) The department shall submit reports of the evaluations  
15 required by this section to the legislature no later than twenty  
16 days prior to the convening of:

17        (1) The 2011 regular session, for credits and exemptions  
18 that will be repealed on December 31, 2011;

19        (2) The 2012 regular session, for credits and exemptions  
20 that will be repealed on December 31, 2012; and

21        (3) The 2013 regular session, for credits and exemptions  
22 that will be repealed on December 31, 2013.



1        (c) In evaluating the economic effects of the tax credits  
2 and tax exemptions provided in title 14 and scheduled for repeal  
3 in Act , Session Laws of Hawaii 2009, the department may:

4        (1) Contract with recognized technical experts  
5 knowledgeable in the field of economics;

6        (2) Establish a technical advisory group, which may  
7 include the department of labor and industrial  
8 relations, department of agriculture, department of  
9 commerce and consumer affairs, department of  
10 transportation, department of human services, and  
11 department of business, economic development, and  
12 tourism, to help identify and develop the data  
13 elements needed for the analyses; and

14        (3) Collect, process, and analyze data from federal,  
15 state, and local government sources.

16        (d) The data and economic analyses provided by the  
17 department in its reports to the legislature shall provide  
18 information sufficient to allow the legislature to determine  
19 whether the tax credits and tax exemptions provided under title  
20 14 have achieved or are achieving their intended objectives,  
21 whether they are consistent with public policies, and whether  
22 they should be reenacted, modified, or permitted to expire.



1       (e) If the department recommends that a tax credit or tax  
2 exemption should be modified, it shall provide with its report  
3 to the legislature, and with the assistance from the departments  
4 listed in subsection (c)(2), proposed draft legislation that,  
5 upon enactment, would effect the recommended modifications.

6       (f) If the department recommends that the law establishing  
7 a tax credit or tax exemption should not be reenacted, it  
8 nevertheless shall make appropriate recommendations, with  
9 assistance from the departments listed in subsection (c)(2), to  
10 improve the operation of the tax credit or tax exemption,  
11 including recommendations for appropriate restrictions to be  
12 placed on the tax credit or tax exemption."

13       **SECTION 3. Repeal dates for tax credits and exemptions.**

14       (a) The following sections shall be repealed on December 31,  
15 2011:

- 16       (1) Section 235-9.5 (stock options from qualified high  
17       technology businesses excluded from taxation);
- 18       (2) Section 235-15 (tax credits to promote the purchase of  
19       child passenger restraint systems);
- 20       (3) Section 235-110.2 (credit for school repair and  
21       maintenance);



- 1 (4) Section 235-110.51 (technology infrastructure  
2 renovation tax credit);
- 3 (5) Section 237-24 (general excise tax; amounts not  
4 taxable);
- 5 (6) Section 237-24.3 (general excise tax; additional  
6 amounts not taxable);
- 7 (7) Section 237-24.9 (general excise tax; aircraft service  
8 and maintenance facility);
- 9 (8) Section 237-27 (general excise tax; exemption of  
10 certain petroleum refiners);
- 11 (9) Section 237-29.53 (general excise tax; exemption for  
12 contracting or services exported out of State);
- 13 (10) Section 237-29.55 (general excise tax; exemption for  
14 sale of tangible personal property for resale at  
15 wholesale);
- 16 (11) Section 237-29.8 (general excise tax; call centers;  
17 exemption; engaging in business; definitions); and
- 18 (12) Section 239-12 (public service company tax; call  
19 centers; exemption; engaging in business;  
20 definitions).
- 21 (b) The following sections shall be repealed on  
22 December 31, 2012:



- 1       (1) Section 235-110.6 (fuel tax credit for commercial  
2           fishers);
- 3       (2) Section 235-110.7 (capital goods excise tax credit);
- 4       (3) Section 237-16.8 (general excise tax; exemption of  
5           certain convention, conference, and trade show fees);
- 6       (4) Section 237-23 (general excise tax; exemptions,  
7           persons exempt, applications for exemption);
- 8       (5) Section 237-23.5 (general excise tax; related  
9           entities; common paymaster; certain exempt  
10          transactions);
- 11       (6) Section 237-24.5 (general excise tax; additional  
12          exemptions);
- 13       (7) Section 237-24.7 (general excise tax; additional  
14          amounts not taxable);
- 15       (8) Section 237-24.75 (general excise tax; additional  
16          exemptions);
- 17       (9) Section 237-25 (general excise tax; exemptions of  
18          sales and gross proceeds of sales to federal  
19          government, and credit unions);
- 20       (10) Section 237-28.1 (general excise tax; exemption of  
21          certain shipbuilding and ship repair business);



- 1 (11) Section 237-29.5 (general excise tax; exemption for  
2 sales of tangible personal property shipped out of the  
3 State); and
- 4 (12) Section 239-6.5 (public service company tax; tax  
5 credit for lifeline telephone service subsidy).
- 6 (c) The following sections shall be repealed on  
7 December 31, 2013:
- 8 (1) Section 235-12.5 (renewable energy technologies;  
9 income tax credit);
- 10 (2) Section 235-17 (motion picture, digital media, and  
11 film production income tax credit);
- 12 (3) Section 235-110.3 (ethanol facility tax credit);
- 13 (4) Section 235-110.8 (low-income housing tax credit);
- 14 (5) Section 237-26 (general excise tax; exemption of  
15 certain scientific contracts with the United States);
- 16 (6) Section 237-27.5 (general excise tax; air pollution  
17 control facility);
- 18 (7) Section 237-27.6 (general excise tax; solid waste  
19 processing, disposal, and electric generating  
20 facility; certain amounts exempt);
- 21 (8) Section 237-29 (general excise tax; exemptions for  
22 certified or approved housing projects);



1 (9) Section 241-4.7 (low-income housing; income tax  
2 credit); and

3 (10) Section 244D-4.3 (liquor tax; exemption for sales of  
4 liquor shipped out of the State).

5 SECTION 4. There is appropriated out of the general  
6 revenues of the State of Hawaii the sum of \$ or so much  
7 thereof as may be necessary for fiscal year 2009-2010 and the  
8 same sum or so much thereof as may be necessary for fiscal year  
9 2010-2011 to carry out the purposes of this Act, including  
10 additional resources, funding for permanent, full-time  
11 equivalent ( .00 FTE) positions (an economist, a research  
12 statistician, and an administrative rules specialist) in the  
13 department of taxation, and to reimburse other state agencies  
14 for costs incurred in performing tasks required by this Act.

15 The sums appropriated shall be expended by the department  
16 of taxation for the purposes of this Act.

17 SECTION 5. New statutory material is underscored.

18 SECTION 6. This Act shall take effect upon its approval;  
19 provided that section 4 shall take effect on July 1, 2009.





**Report Title:**

Tax Credits; Tax Exemptions; Evaluation

**Description:**

Requires the Department of Taxation to evaluate certain tax credits and tax exemptions and report to legislature. Provides automatic repeal of the tax credits and tax exemptions. Provides a penalty for excessive amounts filed for tax refunds and credits. (HB611 HD1)

