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# A BILL FOR AN ACT

RELATING TO THE ECONOMY.

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

1           SECTION 1. The legislature finds that tax credits and tax  
2 exemptions provide an important set of tools for Hawaii's  
3 economic diversification. At the same time, especially during  
4 economic downturns, it is incumbent on state policymakers to  
5 thoroughly evaluate existing tax credits and tax exemptions to  
6 determine whether they are fulfilling the purposes for which  
7 they were adopted, as well as providing solid returns on public  
8 investment.

9           The purposes of this Act are to institute an ongoing  
10 program of evaluation of those tax credits and tax exemptions  
11 that have no sunset dates, require the department of taxation  
12 and department of business, economic development, and tourism to  
13 compile the necessary information to enable the legislature to  
14 evaluate tax credits and exemptions with consistent standards,  
15 and to sunset those credits and exemptions that the department  
16 of taxation and legislature do not believe should be extended.  
17 Over time, as economic conditions change, different combinations

1 of tax credits and tax exemptions serve as the State's key tools  
2 to promote or discourage particular behavior among residents and  
3 businesses.

4 For existing tax credits and tax exemptions that have a  
5 sunset date, the purpose of this Act is to require the  
6 department of taxation, with the assistance of the department of  
7 business, economic development, and tourism, to compile accurate  
8 information on their usage and whether they are fulfilling the  
9 purposes for which they were adopted, as well as providing solid  
10 returns on public investment. The department of business,  
11 economic development, and tourism shall provide the department  
12 of taxation with data on the dynamic economic impact of each tax  
13 credit and tax exemption identified in this Act. The data to be  
14 provided by the department of business, economic development,  
15 and tourism shall be modeled to provide evaluation data  
16 comparable to either the department of business, economic  
17 development, and tourism's renewable energies credit analysis or  
18 the State of New Mexico's film credit analysis.

19 SECTION 2. Section 235-20.5, Hawaii Revised Statutes, is  
20 amended to read as follows:

21 **"§235-20.5 Tax administration special fund; established.**

22 There is established a tax administration special fund, into

1 which shall be deposited fees collected under sections 235-20,  
2 235-110.9, and 235-110.91, and penalties collected under  
3 section 2 of Act 206, [+]Session Laws of Hawaii 2007[+]. The  
4 moneys in the fund shall be expended by the department to offset  
5 the costs associated with:

- 6 (1) Issuing comfort letters;
- 7 (2) Administering the tax credit under ~~[section]~~ sections  
8 235-110.9[7] and 235-110.91, including issuing  
9 certificates; and
- 10 (3) ~~[Issuing certificates under section 235-110.91.]~~  
11 Compiling usage and other relevant economic data to  
12 analyze the costs and benefits of the State's tax  
13 laws."

14 SECTION 3. **Tax credits and exemptions; evaluation; report.**

15 (a) The department of taxation and the department of business,  
16 economic development, and tourism shall perform an evaluation of  
17 the following tax credits and tax exemptions and submit an  
18 evaluation of the fiscal impacts and economic benefits of each  
19 credit and exemption to the legislature by no later than twenty  
20 days prior to the convening of the regular session of 2010;  
21 provided that if the department of taxation, with the assistance  
22 of the department of business, economic development, and

1 tourism, does not submit a complete and accurate evaluation of  
2 the following tax credits and tax exemptions by no later than  
3 twenty days prior to the convening of the regular session of  
4 2011, thereby curtailing the legislature's ability to assess the  
5 tax credits and tax exemptions pursuant to the department of  
6 taxation's recommendations, then each of the applicable tax  
7 credits and tax exemptions shall not be available to be claimed  
8 for taxable years beginning after December 31, 2010:

- 9 (1) Section 235-15, Hawaii Revised Statutes (tax credits  
10 to promote the purchase of child passenger restraint  
11 systems);
- 12 (2) Section 235-110.2, Hawaii Revised Statutes (credit for  
13 school repair and maintenance);
- 14 (3) Section 237-24, Hawaii Revised Statutes (general  
15 excise tax; amounts not taxable), except for section  
16 237-24(6) (salaries or wages for services rendered);
- 17 (4) Section 237-24.3, Hawaii Revised Statutes (general  
18 excise tax; additional amounts not taxable);
- 19 (5) Section 237-24.9, Hawaii Revised Statutes (general  
20 excise tax; aircraft service and maintenance  
21 facility);

- 1 (6) Section 237-29.53, Hawaii Revised Statutes (general  
2 excise tax; exemption for contracting or services  
3 exported out of state);
- 4 (7) Section 237-29.55, Hawaii Revised Statutes (general  
5 excise tax; exemption for sale of tangible personal  
6 property for resale at wholesale);
- 7 (8) Section 237-29.8, Hawaii Revised Statutes (general  
8 excise tax; call centers; exemption; engaging in  
9 business; definitions); and
- 10 (9) Section 239-12, Hawaii Revised Statutes (public  
11 service company tax; call centers; exemption; engaging  
12 in business; definitions).
- 13 (b) The department of taxation and the department of  
14 business, economic development, and tourism shall perform an  
15 evaluation of the following tax credits and tax exemptions and  
16 submit an evaluation of the fiscal impacts and economic benefits  
17 of each credit and exemption to the legislature by no later than  
18 twenty days prior to the convening of the regular session of  
19 2011; provided that if the department of taxation, with the  
20 assistance of the department of business, economic development,  
21 and tourism, does not submit a complete and accurate evaluation  
22 of the following tax credits and tax exemptions by no later than

1 twenty days prior to the convening of the regular session of  
2 2012, thereby curtailing the legislature's ability to assess the  
3 tax credits and tax exemptions pursuant to the department of  
4 taxation's recommendations, then each of the applicable tax  
5 credits and tax exemptions shall not be available to be claimed  
6 for taxable years beginning after December 31, 2011:

- 7 (1) Section 235-110.6, Hawaii Revised Statutes (fuel tax  
8 credit for commercial fishers);
- 9 (2) Section 237-16.8, Hawaii Revised Statutes (general  
10 excise tax; exemption of certain convention,  
11 conference, and trade show fees);
- 12 (3) Section 237-23.5, Hawaii Revised Statutes (general  
13 excise tax; related entities; common paymaster;  
14 certain exempt transactions);
- 15 (4) Section 237-24.5, Hawaii Revised Statutes (general  
16 excise tax; additional exemptions);
- 17 (5) Section 237-24.7, Hawaii Revised Statutes (general  
18 excise tax; additional amounts not taxable);
- 19 (6) Section 237-24.75, Hawaii Revised Statutes (general  
20 excise tax; additional exemptions);

- 1 (7) Section 237-25, Hawaii Revised Statutes (general  
2 excise tax; exemptions of sales and gross proceeds of  
3 sales to federal government, and credit unions);
- 4 (8) Section 237-28.1, Hawaii Revised Statutes (general  
5 excise tax; exemption of certain shipbuilding and ship  
6 repair business); and
- 7 (9) Section 237-29.5, Hawaii Revised Statutes (general  
8 excise tax; exemption for sales of tangible personal  
9 property shipped out of State).
- 10 (c) The department of taxation and the department of  
11 business, economic development, and tourism shall perform an  
12 evaluation of the following tax credits and tax exemptions and  
13 submit an evaluation of the fiscal impacts and economic benefits  
14 of each credit and exemption to the legislature by no later than  
15 twenty days prior to the convening of the regular session of  
16 2012; provided that if the department of taxation, with the  
17 assistance of the department of business, economic development,  
18 and tourism, does not submit a complete and accurate evaluation  
19 of the following tax credits and tax exemptions by no later than  
20 twenty days prior to the convening of the regular session of  
21 2013, thereby curtailing the legislature's ability to assess the  
22 tax credits and tax exemptions pursuant to the department of

1 taxation's recommendations, then each of the applicable tax  
2 credits and tax exemptions shall not be available to be claimed  
3 for taxable years beginning after December 31, 2012:

4 (1) Section 209E-10, Hawaii Revised Statutes (state  
5 business tax credit);

6 (2) Section 209E-11, Hawaii Revised Statutes (state  
7 general excise exemptions);

8 (3) Section 235-55.85, Hawaii Revised Statutes (refundable  
9 food/excise tax credit);

10 (4) Section 235-55.91, Hawaii Revised Statutes (credit for  
11 employment of vocational rehabilitation referrals);

12 (5) Section 235-71, Hawaii Revised Statutes (tax on  
13 corporations; rates; credit of shareholder of  
14 regulated investment company);

15 (6) Section 237-26, Hawaii Revised Statutes (general  
16 excise tax; exemption of certain scientific contracts  
17 with the United States);

18 (7) Section 237-27, Hawaii Revised Statutes (general  
19 excise tax; exemption of certain petroleum refiners);

20 (8) Section 237-27.5, Hawaii Revised Statutes (general  
21 excise tax; air pollution control facility);



1 (9) Section 237-27.6, Hawaii Revised Statutes (general  
2 excise tax; solid waste processing, disposal, and  
3 electric generating facility; certain amounts exempt);  
4 and

5 (10) Section 244D-4.3, Hawaii Revised Statutes (liquor tax;  
6 exemption for sales of liquor shipped out of State).

7 (d) The department of taxation and the department of  
8 business, economic development, and tourism shall perform an  
9 evaluation of the following tax credits and tax exemptions and  
10 submit an evaluation of the fiscal impacts and economic benefits  
11 of each credit and exemption to the legislature by no later than  
12 twenty days prior to the convening of the regular session of  
13 2013; provided that if the department of taxation, with the  
14 assistance of the department of business, economic development,  
15 and tourism, does not submit a complete and accurate evaluation  
16 of the following tax credits and tax exemptions by no later than  
17 twenty days prior to the convening of the regular session of  
18 2014, thereby curtailing the legislature's ability to assess the  
19 tax credits and tax exemptions pursuant to the department of  
20 taxation's recommendations, then each of the applicable tax  
21 credits and tax exemptions shall not be available to be claimed  
22 for taxable years beginning after December 31, 2013; provided

1 that the potential repeal of the tax credits in paragraphs (6)  
2 and (7) and the tax exemption in paragraph (9) shall not apply  
3 to those projects approved before January 1, 2014:

4 (1) Section 235-12.5, Hawaii Revised Statutes (renewable  
5 energy technologies; income tax credit);

6 (2) Section 235-55, Hawaii Revised Statutes (tax credits  
7 for resident taxpayers);

8 (3) Section 235-55.6, Hawaii Revised Statutes (expenses  
9 for household and dependent care services necessary  
10 for gainful employment);

11 (4) Section 235-55.7, Hawaii Revised Statutes (income tax  
12 credit for low-income household renters);

13 (5) Section 235-110.3, Hawaii Revised Statutes (ethanol  
14 facility tax credit);

15 (6) Section 235-110.7, Hawaii Revised Statutes (capital  
16 goods excise tax credit);

17 (7) Section 235-110.8, Hawaii Revised Statutes (low-income  
18 housing tax credit);

19 (8) Section 237-23, Hawaii Revised Statutes (general  
20 excise tax; exemptions, persons exempt, applications  
21 for exemption), except for section 237-23(a)(1),

22 Hawaii Revised Statutes (public service companies);

- 1 (9) Section 237-29, Hawaii Revised Statutes (general  
2 excise tax; exemptions for certified or approved  
3 housing projects);
- 4 (10) Section 239-6.5, Hawaii Revised Statutes (public  
5 service company tax; tax credit for lifeline telephone  
6 service subsidy); and
- 7 (11) Section 241-4.7, Hawaii Revised Statutes (low-income  
8 housing; income tax credit).

9 (e) The reports submitted by the department of taxation  
10 and the department of business, economic development, and  
11 tourism under this Act shall provide usage and revenue data,  
12 economic analyses, and other information sufficient to enable  
13 the legislature to determine whether the tax credits and tax  
14 exemptions evaluated have achieved or are achieving their  
15 intended objectives, whether they are consistent with public  
16 policies, and whether they should be continued, modified, or  
17 repealed.

18 If the department of taxation recommends that a tax credit  
19 or tax exemption should be modified, the department shall  
20 include in its report, with the assistance of the departments  
21 listed in subsection (f) (2), the proposed draft legislation to  
22 implement the recommended modifications.

1           If the department of taxation recommends that the law  
2     establishing a tax credit or tax exemption should be continued  
3     in its current form, it shall make appropriate recommendations,  
4     with the assistance of the departments listed in subsection  
5     (f) (2), to improve the operation of the tax credit or tax  
6     exemption, including but not limited to recommendations for  
7     appropriate restrictions to be placed on the tax credit or tax  
8     exemption and whether to use a five-year or ten-year sunset  
9     provision. In accordance with this section, the recommendation  
10    from the department of taxation to either continue the tax  
11    credit or tax exemption in its current form or to modify the  
12    credit shall be received before the applicable tax credit or tax  
13    exemption is scheduled to sunset pursuant to this section.

14           The reports submitted by the department of taxation under  
15    this Act shall also include recommendations for the evaluation  
16    of other tax credits and exemptions in the future.

17           (f) In evaluating the tax credits and tax exemptions the  
18    department of taxation shall:

- 19           (1) Obtain from the department of business, economic  
20           development, and tourism an economic impact analysis;
- 21           (2) Establish a technical advisory group, which may  
22           include the department of labor and industrial

1 relations, department of agriculture, department of  
2 commerce and consumer affairs, department of  
3 transportation, department of human services, and  
4 department of business, economic development, and  
5 tourism, to help identify and develop the data  
6 elements needed for the analyses;

7 (3) Collect, process, and analyze data from federal,  
8 state, and local government sources; and

9 (4) Post all usage data on the department's website with  
10 an explanation of the department's methodology used to  
11 calculate revenue losses and other fiscal impacts in  
12 order to address the lack of availability of pertinent  
13 tax data that is timely, comprehensive, and accurate.

14 SECTION 4. The department of taxation shall perform an  
15 evaluation of the following tax credits and submit a report of  
16 the evaluation to the legislature by no later than twenty days  
17 prior to the convening of the regular session as specified  
18 below:

19 (1) Section 235-17, Hawaii Revised Statutes (motion  
20 picture, digital media, and film production income tax  
21 credit), one year before the expiration date, as  
22 specified in that section;

1 (2) Section 235-110.51, Hawaii Revised Statutes  
2 (technology infrastructure renovation tax credit), one  
3 year before the expiration date, as specified in that  
4 section;

5 (3) Section 235-110.9, Hawaii Revised Statutes (high  
6 technology business investment tax credit), one year  
7 before the expiration date, as specified in that  
8 section; and

9 (4) Section 235-110.91, Hawaii Revised Statutes (tax  
10 credit for research activities), one year before the  
11 expiration date, as specified in that section.

12 The tax credits identified in this subsection are not being  
13 extended in any manner. The tax credits identified in this  
14 section are existing tax credits with expiration dates that  
15 shall be reviewed in a uniform and systematic manner prior to  
16 their respective repeal dates, similar to those tax credits  
17 evaluated that do not have expiration dates, to determine  
18 whether those tax credits have fulfilled the purposes for which  
19 they were enacted.

20 SECTION 5. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.

22 SECTION 6. This Act shall take effect on July 1, 2070.

**Report Title:**

Tax Credits; Tax Exemptions; Evaluation; Report

**Description:**

Requires the department of taxation, with the assistance of the department of business, economic development, and tourism, to evaluate certain tax credits and tax exemptions and report to the legislature. Requires the department of taxation to give recommendations prior to the mandate for those tax credits and tax exemptions to sunset. (SD2)