

STAND. COM. REP. NO.

1070

Honolulu, Hawaii

MAR 27 2009

RE: H.B. No. 611
H.D. 1
S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fifth State Legislature
Regular Session of 2009
State of Hawaii

Madam:

Your Committee on Economic Development and Technology, to which was referred H.B. No. 611, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO TAXATION,"

begs leave to report as follows:

The purpose of this measure is to ensure the State's fiscal integrity and provide good state fiscal policy by establishing a sunrise and sunset review of certain tax exemptions, deductions, and credits to require legislative review of these programs.

Your Committee has substituted the contents of this measure with the contents of a Proposed H.B. No. 611, H.D. 1, S.D. 1, that was circulated amongst various stakeholders to gain a consensus of approval. The Proposed H.B. No. 611, H.D. 1, S.D. 1, accomplished the following:

- (1) Deleted the contents of this measure and replaced it with the contents of S.B. No. 1247, S.D. 2, which is the Senate's version of the measure to study and evaluate several tax credits and tax exemptions;
- (2) Added a new part to chapter 235, Hawaii Revised Statutes, to clarify the application of the Capital Goods Excise Tax Credit in section 235-110.7, Hawaii Revised Statutes, and placing it in Part I;



- (3) Suspended the Capital Goods Excise Tax Credit in section 235-110.7, Hawaii Revised Statutes, for property placed in service in taxable years beginning on or after January 1, 2010, and ending on or before December 31, 2011;
- (4) Placed the legislation pertaining to the study and evaluation of several tax credits and tax exemptions in chapters 209E, 235, 237, 239, and 241, 244D, Hawaii Revised Statutes, into Part II; and
- (5) Added an additional general excise tax exemption under section 237-24.3, Hawaii Revised Statutes, for amounts related to the transportation of agricultural products between the islands of this State.

Testimony in support of the Proposed H.B. No. 611, H.D. 1, S.D. 1, was submitted by the Department of Business, Economic Development, and Tourism, Hawaii Farm Bureau Federation, Inter-Island Solar Supply, Maui County Farm Bureau, Hawaii Cattlemen's Council Inc., Maui Cattlemen's Association, Diamond B Ranch, and three concerned individuals. Testimony in opposition of this measure was submitted by the National Association of Insurance and Financial Advisors, The Chamber of Commerce of Hawaii, Queen's Medical Center, Kaiser Permanente, Ship Repair Association of Hawaii, Hawaii State Bar Association, American Council of Life Insurers, Covanta Energy Group, and Hoola Lahui Hawaii. Comments on this measure were submitted by the Department of Taxation, the Department of Agriculture, Hawaii Housing Finance and Development Corporation, Hawaii Association of Realtors, Hawaii Bioenergy, Hawaii Solar Energy Association, and Hawaii Alliance of Nonprofit Organizations. Written testimony presented to the Committee may be reviewed on the Legislature's website.

Your Committee finds that the Proposed H.B. No. 611, H.D. 1, S.D. 1, tax credits and tax exemptions are important to the State's economic diversification. Your Committee further finds that as economic conditions change over time, the tax credits and tax exemptions may need to be extended, repealed, or sunset to promote certain types of business activity. Without a regular evaluation of tax credits and exemptions, the Legislature will not be able to make effective adjustments to the State's tax credits and exemptions.



Your Committee has deleted section 237-28.1, Hawaii Revised Statutes, from the listing of tax exemptions scheduled for automatic sunset on December 31, 2011, as a result of strong concerns raised by The Chamber of Commerce of Hawaii and Ship Repair Association of Hawaii.

When the original listing of tax credits and tax exemptions scheduled for sunset, review, and evaluation in S.B. No. 1247, S.D. 2, was compiled, your Committee relied upon the following tax revenues foregone under section 237-28.1, Hawaii Revised Statutes, as based upon 2006 estimates of the 2005-2007 Tax Review Commission:

- (1) \$550,854 in fiscal year 2012;
- (2) \$1,134,760 in fiscal year 2013;
- (3) \$1,168,802 in fiscal year 2014; and
- (4) \$1,203,866 in fiscal year 2015.

These estimates are considerably below today's estimates of the level of general excise tax savings that result from \$90,000,000 to \$100,000,000 in annual expenditures for government-contracted ship and repair facility installations and maintenance in and around Pearl Harbor. Given the importance of Pearl Harbor's ship building and repair industry to the State's economy, and the United States Navy's goal of reducing ship repair costs for work performed in Hawaii, your Committee therefore seeks only to evaluate the costs and benefits of section 237-2.1, Hawaii Revised Statutes, in conjunction with those tax credits and tax exemptions scheduled to sunset at the end of 2011.

In regard to the deletion of section 237-24, Hawaii Revised Statutes, your Committee believes that many of the general excise tax exemptions in that section are fundamentally based upon not being subject to general excise tax, such as exemptions for employee wages, alimony, and insurance proceeds. Thus, your Committee does not believe that section 237-24, Hawaii Revised Statutes, should be subjected to a automatic sunset, however, your Committee still believes that section 237-24, Hawaii Revised Statutes, should be jointly evaluated by the Department of Taxation and the Department of Business, Economic Development, and Tourism.



Your Committee has amended the Proposed H.B. No. 611, H.D. 1, S.D. 1, by:

- (1) Deleting from the definition of "eligible property" the inclusion of computer software;
- (2) Clarifying that the application of the Capital Goods Excise Tax Credit in section 235-110.7, Hawaii Revised Statutes, applies to property purchased pursuant to a binding contract;
- (3) Revising the suspension of the Capital Goods Excise Tax Credit in section 235-110.7, Hawaii Revised Statutes, to also apply to property purchased pursuant to a binding contract;
- (4) Amending the period of the suspension of the Capital Goods Excise Tax Credit in section 235-110.7, Hawaii Revised Statutes, to only comprise of taxable years beginning on or after July 1, 2009, and ending on or before December 31, 2011, rather than taxable years beginning on or after January 1, 2010, and ending on or before December 31, 2011;
- (5) Deleting the automatic sunset of the exemptions in section 237-24, Hawaii Revised Statutes, relating to general excise amounts not taxable;
- (6) Deleting the automatic sunset of the exemptions in section 237-28.1, Hawaii Revised Statutes, relating to general excise taxes on sales of shipbuilding and ship repair businesses;
- (7) Revising the paragraph references to the tax credits and tax exemptions applicable to low-income housing projects in subsection (d) of section 8;
- (8) Adding representatives of Hawaii's non-profit sector to the Technical Advisory Group that is going to be established to help identify and develop the data elements needed for the analysis of the tax credits and tax exemptions;
- (9) Changing the effective date from July 1, 2009, to July 1, 2050, to promote further discussion on



additional information pending from the Department of Business, Economic Development, and Tourism, and the Department of Taxation regarding the appropriate means of data aggregation and dissemination between those departments in facilitating the production of comprehensive fiscal and economic impact statements; and

- (10) Making technical, nonsubstantive amendments for the purpose of clarity.

Your Committee received a fiscal impact statement from the Department of Taxation that this measure, as introduced, would result in the following annual revenue losses to the State:

- (1) Fiscal year 2010, \$17.2 million;
- (2) Fiscal year 2011, \$425.4 million;
- (3) Fiscal year 2012, \$925.2 million;
- (4) Fiscal year 2013, \$1.1 billion;
- (5) Fiscal year 2014, \$1.3 billion;
- (6) Fiscal year 2015, \$1.6 billion.


The Department of Taxation's methodology is as follows:

In addition, the study required by the bill may result in an additional revenue gain of from \$1,000,000 to \$3,000,000, because data and analysis developed for the study will help make the Department's compliance efforts more efficient. Revenue gains from eliminating the income tax credits are taken from the Department's study of income tax credits for 2006. Revenue gains from eliminating the GET exemptions are from the report of the 2005-2007 Tax Review Commission.

As affirmed by the record of votes of the members of your Committee on Economic Development and Technology that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 611, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 611, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.



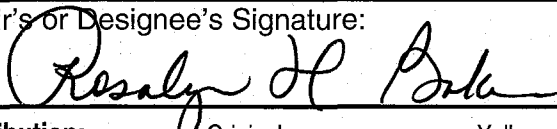
Respectfully submitted on
behalf of the members of the
Committee on Economic
Development and Technology,


CAROL FUKUNAGA, Chair



The Senate
Twenty-Fifth Legislature
State of Hawaii

Record of Votes
Committee on Economic Development and Technology
EDT

Bill / Resolution No.:* HB 011, HD 1	Committee Referral: EDT, WAM	Date: 3-25-09		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
FUKUNAGA, Carol (C)	✓			
BAKER, Rosalyn H. (VC)	✓			
HEE, Clayton				✓
IGE, David Y.				✓
SLOM, Sam	2312 ✓			
TOTAL	2	1	—	2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes