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# A BILL FOR AN ACT

RELATING TO PUBLIC FINANCE.

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

1 PART I

2 SECTION 1. The legislature finds that Hawaii's tax system  
3 has become highly regressive, with the lowest twenty per cent of  
4 Hawaii's citizens experiencing a total tax burden of 12.2 per  
5 cent of their income after the federal offset and the highest  
6 one per cent of citizens experiencing a total tax burden of only  
7 6.3 per cent after the federal offset.

8 The legislature also finds that at the same time, tax  
9 collections have plummeted, resulting in furloughs, layoffs, and  
10 reductions in services. In particular, funding for education  
11 has been reduced by approximately \$ million. Regardless of  
12 whether a solution is implemented in time to restore lost  
13 instructional days for the 2009-2010 school year, \_\_\_\_\_  
14 instructional days for ten-month non-charter public school  
15 students and \_\_\_\_\_ twelve-month non-charter public schools  
16 are scheduled to be canceled for the 2010-2011 school year.

17 The legislature further finds that any approach to  
18 restoring instructional days and funding for education and other



1 priorities should be forward-thinking to prevent short-sighted  
2 solutions. A combination of appropriations from the Hawaii  
3 hurricane relief fund, the emergency and budget reserve fund,  
4 the federal Troubled Asset Relief Program, and increasing income  
5 taxes for the highest earning citizens, closing of corporate tax  
6 loopholes, and taxing capital gains at ordinary income tax rates  
7 would provide a viable means of restoring funding for education  
8 and other high need, high priority programs.

9 The legislature declares that this Act shall not be  
10 construed to mean that the legislature, in any way, intends to  
11 interfere with the processes of public sector collective  
12 bargaining as authorized under the state constitution and  
13 chapter 89, Hawaii Revised Statutes.

14 The purpose of this Act is to generate revenue, make the  
15 tax system more progressive, appropriate funds for public  
16 education, and to establish a commission to evaluate Hawaii's  
17 tax structure and means of financing public education.

18 PART II

19 SECTION 2. The legislature finds that citizens whose  
20 income exceed \$200,000 have benefited from the growth of  
21 Hawaii's economy over the years and even during the current  
22 recession, continue to benefit from the State's economy. These



1 residents should pay their fair share. Specifically, this part  
2 is designed to increase revenue by increasing income tax  
3 brackets and rates for high-income individual taxpayers.

4 SECTION 3. Section 235-51, Hawaii Revised Statutes, is  
5 amended by amending subsections (a), (b), (c), and (d) to read  
6 as follows:

7 "(a) There is hereby imposed on the taxable income of (1)  
8 every taxpayer who files a joint return under section 235-93;  
9 and (2) every surviving spouse a tax determined in accordance  
10 with the following table:

11 In the case of any taxable year beginning after  
12 December 31, 2001:

If the taxable income is:	The tax shall be:
Not over \$4,000	1.40% of taxable income
Over \$4,000 but not over \$8,000	\$56.00 plus 3.20% of excess over \$4,000
Over \$8,000 but not over \$16,000	\$184.00 plus 5.50% of excess over \$8,000
Over \$16,000 but not over \$24,000	\$624.00 plus 6.40% of excess over \$16,000
Over \$24,000 but not over \$32,000	\$1,136.00 plus 6.80% of excess over \$24,000



1	Over \$32,000 but	\$1,680.00 plus 7.20% of
2	not over \$40,000	excess over \$32,000
3	Over \$40,000 but	\$2,256.00 plus 7.60% of
4	not over \$60,000	excess over \$40,000
5	Over \$60,000 but	\$3,776.00 plus 7.90% of
6	not over \$80,000	excess over \$60,000
7	Over \$80,000	\$5,356.00 plus 8.25% of
8		excess over \$80,000.

9 In the case of any taxable year beginning after  
10 December 31, 2006:

11	If the taxable income is:	The tax shall be:
12	Not over \$4,800	1.40% of taxable income
13	Over \$4,800 but	\$67.00 plus 3.20% of
14	not over \$9,600	excess over \$4,800
15	Over \$9,600 but	\$221.00 plus 5.50% of
16	not over \$19,200	excess over \$9,600
17	Over \$19,200 but	\$749.00 plus 6.40% of
18	not over \$28,800	excess over \$19,200
19	Over \$28,800 but	\$1,363.00 plus 6.80% of
20	not over \$38,400	excess over \$28,800
21	Over \$38,400 but	\$2,016.00 plus 7.20% of
22	not over \$48,000	excess over \$38,400



1	Over \$48,000 but	\$2,707.00 plus 7.60% of
2	not over \$72,000	excess over \$48,000
3	Over \$72,000 but	\$4,531.00 plus 7.90% of
4	not over \$96,000	excess over \$72,000
5	Over \$96,000	\$6,427.00 plus 8.25% of
6		excess over \$96,000.

7 In the case of any taxable year beginning after December  
8 31, 2008:

9	If the taxable income is:	The tax shall be:
10	Not over \$4,800	1.40% of taxable income
11	Over \$4,800 but	\$67.00 plus 3.20% of
12	not over \$9,600	excess over \$4,800
13	Over \$9,600 but	\$221.00 plus 5.50% of
14	not over \$19,200	excess over \$9,600
15	Over \$19,200 but	\$749.00 plus 6.40% of
16	not over \$28,800	excess over \$19,200
17	Over \$28,800 but	\$1,363.00 plus 6.80% of
18	not over \$38,400	excess over \$28,800
19	Over \$38,400 but	\$2,016.00 plus 7.20% of
20	not over \$48,000	excess over \$38,400
21	Over \$48,000 but	\$2,707.00 plus 7.60% of
22	not over \$72,000	excess over \$48,000



1	Over \$72,000 but	\$4,531.00 plus 7.90% of
2	not over \$96,000	excess over \$72,000
3	Over \$96,000 but	\$6,427.00 plus 8.25% of
4	not over \$300,000	excess over \$96,000
5	Over \$300,000 but	\$23,257.00 plus 9.00% of
6	not over \$350,000	excess over \$300,000
7	Over \$350,000 but	\$27,757.00 plus 10.00% of
8	not over \$400,000	excess over \$350,000
9	Over \$400,000	\$32,757.00 plus 11.00% of
10		excess over \$400,000.

11 In the case of any taxable year beginning after

12 December 31, 2009:

13	<u>If the taxable income is:</u>	<u>The tax shall be:</u>
14	<u>Not over \$4,800</u>	<u>1.40% of taxable income</u>
15	<u>Over \$4,800 but</u>	<u>\$67.00 plus 3.20% of</u>
16	<u>not over \$9,600</u>	<u>excess over \$4,800</u>
17	<u>Over \$9,600 but</u>	<u>\$221.00 plus 5.50% of</u>
18	<u>not over \$19,200</u>	<u>excess over \$9,600</u>
19	<u>Over \$19,200 but</u>	<u>\$749.00 plus 6.40% of</u>
20	<u>not over \$28,800</u>	<u>excess over \$19,200</u>
21	<u>Over \$28,800 but</u>	<u>\$1,363.00 plus 6.80% of</u>
22	<u>not over \$38,400</u>	<u>excess over \$28,800</u>



1	<u>Over \$38,400 but</u>	<u>\$2,016.00 plus 7.20% of</u>
2	<u>not over \$48,000</u>	<u>excess over \$38,400</u>
3	<u>Over \$48,000 but</u>	<u>\$2,707.00 plus 7.60% of</u>
4	<u>not over \$72,000</u>	<u>excess over \$48,000</u>
5	<u>Over \$72,000 but</u>	<u>\$4,531.00 plus 7.90% of</u>
6	<u>not over \$96,000</u>	<u>excess over \$72,000</u>
7	<u>Over \$96,000 but</u>	<u>\$6,427.00 plus 8.25% of</u>
8	<u>not over \$200,000</u>	<u>excess over \$96,000</u>
9	<u>Over \$200,000 but</u>	<u>\$ _____ plus 10.55% of</u>
10	<u>not over \$400,000</u>	<u>excess over \$200,000</u>
11	<u>Over \$400,000</u>	<u>\$ _____ plus 13.55% of</u>
12		<u>excess over \$400,000.</u>

13 (b) There is hereby imposed on the taxable income of every  
 14 head of a household a tax determined in accordance with the  
 15 following table:

16 In the case of any taxable year beginning after  
 17 December 31, 2001:

18	If the taxable income is:	The tax shall be:
19	Not over \$3,000	1.40% of taxable income
20	Over \$3,000 but	\$42.00 plus 3.20% of
21	not over \$6,000	excess over \$3,000
22	Over \$6,000 but	\$138.00 plus 5.50% of



1	not over \$12,000	excess over \$6,000
2	Over \$12,000 but	\$468.00 plus 6.40% of
3	not over \$18,000	excess over \$12,000
4	Over \$18,000	\$852.00 plus 6.80% of
5	but not over \$24,000	excess over \$18,000
6	Over \$24,000 but	\$1,260.00 plus 7.20% of
7	not over \$30,000	excess over \$24,000
8	Over \$30,000 but	\$1,692.00 plus 7.60% of
9	not over \$45,000	excess over \$30,000
10	Over \$45,000 but	\$2,832.00 plus 7.90% of
11	not over \$60,000	excess over \$45,000
12	Over \$60,000	\$4,017.00 plus 8.25% of
13		excess over \$60,000.

14 In the case of any taxable year beginning after  
 15 December 31, 2006:

16	If the taxable income is:	The tax shall be:
17	Not over \$3,600	1.40% of taxable income
18	Over \$3,600 but	\$50.00 plus 3.20% of
19	not over \$7,200	excess over \$3,600
20	Over \$7,200 but	\$166.00 plus 5.50% of
21	not over \$14,400	excess over \$7,200
22	Over \$14,400 but	\$562.00 plus 6.40% of





1	not over \$21,600	excess over \$14,400
2	Over \$21,600 but	\$1,022.00 plus 6.80% of
3	not over \$28,800	excess over \$21,600
4	Over \$28,800 but	\$1,512.00 plus 7.20% of
5	not over \$36,000	excess over \$28,800
6	Over \$36,000 but	\$2,030.00 plus 7.60% of
7	not over \$54,000	excess over \$36,000
8	Over \$54,000 but	\$3,398.00 plus 7.90% of
9	not over \$72,000	excess over \$54,000
10	Over \$72,000	\$4,820.00 plus 8.25% of
11		excess over \$72,000.

12 In the case of any taxable year beginning after  
 13 December 31, 2008:

14	If the taxable income is:	The tax shall be:
15	Not over \$3,600	1.40% of taxable income
16	Over \$3,600 but	\$50.00 plus 3.20% of
17	not over \$7,200	excess over \$3,600
18	Over \$7,200 but	\$166.00 plus 5.50% of
19	not over \$14,400	excess over \$7,200
20	Over \$14,400 but	\$562.00 plus 6.40% of
21	not over \$21,600	excess over \$14,400
22	Over \$21,600 but	\$1,022.00 plus 6.80% of



1	not over \$28,800	excess over \$21,600
2	Over \$28,800 but	\$1,512.00 plus 7.20% of
3	not over \$36,000	excess over \$28,800
4	Over \$36,000 but	\$2,030.00 plus 7.60% of
5	not over \$54,000	excess over \$36,000
6	Over \$54,000 but	\$3,398.00 plus 7.90% of
7	not over \$72,000	excess over \$54,000
8	Over \$72,000 but	\$4,820.00 plus 8.25% of
9	not over \$225,000	excess over \$72,000
10	Over \$225,000 but	\$17,443.00 plus 9.00% of
11	not over \$262,500	excess over \$225,000
12	Over \$262,500 but	\$20,818.00 plus 10.00% of
13	not over \$300,000	excess over \$262,500
14	Over \$300,000	\$24,568.00 plus 11.00% of
15		excess over \$300,000.

16 In the case of any taxable year beginning after

17 December 31, 2009:

18	<u>If the taxable income is:</u>	<u>The tax shall be:</u>
19	<u>Not over \$3,600</u>	<u>1.40% of taxable income</u>
20	<u>Over \$3,600 but</u>	<u>\$50.00 plus 3.20% of</u>
21	<u>not over \$7,200</u>	<u>excess over \$3,600</u>
22	<u>Over \$7,200 but</u>	<u>\$166.00 plus 5.50% of</u>



1	<u>not over \$14,400</u>	<u>excess over \$7,200</u>
2	<u>Over \$14,400 but</u>	<u>\$562.00 plus 6.40% of</u>
3	<u>not over \$21,600</u>	<u>excess over \$14,400</u>
4	<u>Over \$21,600 but</u>	<u>\$1,022.00 plus 6.80% of</u>
5	<u>not over \$28,800</u>	<u>excess over \$21,600</u>
6	<u>Over \$28,800 but</u>	<u>\$1,512.00 plus 7.20% of</u>
7	<u>not over \$36,000</u>	<u>excess over \$28,800</u>
8	<u>Over \$36,000 but</u>	<u>\$2,030.00 plus 7.60% of</u>
9	<u>not over \$54,000</u>	<u>excess over \$36,000</u>
10	<u>Over \$54,000 but</u>	<u>\$3,398.00 plus 7.90% of</u>
11	<u>not over \$72,000</u>	<u>excess over \$54,000</u>
12	<u>Over \$72,000 but</u>	<u>\$4,820.00 plus 8.25% of</u>
13	<u>not over \$96,000</u>	<u>excess over \$72,000</u>
14	<u>Over \$96,000 but</u>	<u>\$6,427.00 plus 8.25% of</u>
15	<u>not over \$200,000</u>	<u>excess over \$96,000</u>
16	<u>Over \$200,000 but</u>	<u>\$ _____ plus 10.55% of</u>
17	<u>not over \$400,000</u>	<u>excess over \$200,000</u>
18	<u>Over \$400,000</u>	<u>\$ _____ plus 13.55% of</u>
19		<u>excess over \$400,000.</u>

20 (c) There is hereby imposed on the taxable income of (1)  
 21 every unmarried individual (other than a surviving spouse, or  
 22 the head of a household) and (2) on the taxable income of every

1 married individual who does not make a single return jointly  
2 with the individual's spouse under section 235-93 a tax  
3 determined in accordance with the following table:

4 In the case of any taxable year beginning after  
5 December 31, 2001:

6	If the taxable income is:	The tax shall be:
7	Not over \$2,000	1.40% of taxable income
8	Over \$2,000 but	\$28.00 plus 3.20% of
9	not over \$4,000	excess over \$2,000
10	Over \$4,000 but	\$92.00 plus 5.50% of
11	not over \$8,000	excess over \$4,000
12	Over \$8,000 but	\$312.00 plus 6.40% of
13	not over \$12,000	excess over \$8,000
14	Over \$12,000 but	\$568.00 plus 6.80% of
15	not over \$16,000	excess over \$12,000
16	Over \$16,000 but	\$840.00 plus 7.20% of
17	not over \$20,000	excess over \$16,000
18	Over \$20,000 but	\$1,128.00 plus 7.60% of
19	not over \$30,000	excess over \$20,000
20	Over \$30,000 but	\$1,888.00 plus 7.90% of
21	not over \$40,000	excess over \$30,000
22	Over \$40,000	\$2,678.00 plus 8.25% of



1 excess over \$40,000.

2 In the case of any taxable year beginning after  
3 December 31, 2006:

4	If the taxable income is:	The tax shall be:
5	Not over \$2,400	1.40% of taxable income
6	Over \$2,400 but	\$34.00 plus 3.20% of
7	not over \$4,800	excess over \$2,400
8	Over \$4,800 but	\$110.00 plus 5.50% of
9	not over \$9,600	excess over \$4,800
10	Over \$9,600 but	\$374.00 plus 6.40% of
11	not over \$14,400	excess over \$9,600
12	Over \$14,400 but	\$682.00 plus 6.80% of
13	not over \$19,200	excess over \$14,400
14	Over \$19,200 but	\$1,008.00 plus 7.20% of
15	not over \$24,000	excess over \$19,200
16	Over \$24,000 but	\$1,354.00 plus 7.60% of
17	not over \$36,000	excess over \$24,000
18	Over \$36,000 but	\$2,266.00 plus 7.90% of
19	not over \$48,000	excess over \$36,000
20	Over \$48,000	\$3,214.00 plus 8.25% of
21		excess over \$48,000.



1           In the case of any taxable year beginning after  
2 December 31, 2008:

3	If the taxable income is:	The tax shall be:
4	Not over \$2,400	1.40% of taxable income
5	Over \$2,400 but	\$34.00 plus 3.20% of
6	not over \$4,800	excess over \$2,400
7	Over \$4,800 but	\$110.00 plus 5.50% of
8	not over \$9,600	excess over \$4,800
9	Over \$9,600 but	\$374.00 plus 6.40% of
10	not over \$14,400	excess over \$9,600
11	Over \$14,400 but	\$682.00 plus 6.80% of
12	not over \$19,200	excess over \$14,400
13	Over \$19,200 but	\$1,008.00 plus 7.20% of
14	not over \$24,000	excess over \$19,200
15	Over \$24,000 but	\$1,354.00 plus 7.60% of
16	not over \$36,000	excess over \$24,000
17	Over \$36,000 but	\$2,266.00 plus 7.90% of
18	not over \$48,000	excess over \$36,000
19	Over \$48,000 but	\$3,214.00 plus 8.25% of
20	not over \$150,000	excess over \$48,000
21	Over \$150,000 but	\$11,629.00 plus 9.00% of
22	not over \$175,000	excess over \$150,000



1 Over \$175,000 but \$13,879.00 plus 10.00% of  
 2 not over \$200,000 excess over \$175,000  
 3 Over \$200,000 \$16,379.00 plus 11.00% of  
 4 excess over \$200,000.

5 In the case of any taxable year beginning after December 31,  
 6 2009:

7	<u>If the taxable income is:</u>	<u>The tax shall be:</u>
8	<u>Not over \$2,400</u>	<u>1.40% of taxable income</u>
9	<u>Over \$2,400 but</u>	<u>\$34.00 plus 3.20% of</u>
10	<u>not over \$4,800</u>	<u>excess over \$2,400</u>
11	<u>Over \$4,800 but</u>	<u>\$110.00 plus 5.50% of</u>
12	<u>not over \$9,600</u>	<u>excess over \$4,800</u>
13	<u>Over \$9,600 but</u>	<u>\$374.00 plus 6.40% of</u>
14	<u>not over \$14,400</u>	<u>excess over \$9,600</u>
15	<u>Over \$14,400 but</u>	<u>\$682.00 plus 6.80% of</u>
16	<u>not over \$19,200</u>	<u>excess over \$14,400</u>
17	<u>Over \$19,200 but</u>	<u>\$1,008.00 plus 7.20% of</u>
18	<u>not over \$24,000</u>	<u>excess over \$19,200</u>
19	<u>Over \$24,000 but</u>	<u>\$1,354.00 plus 7.60% of</u>
20	<u>not over \$36,000</u>	<u>excess over \$24,000</u>
21	<u>Over \$36,000 but</u>	<u>\$2,266.00 plus 7.90% of</u>
22	<u>not over \$48,000</u>	<u>excess over \$36,000</u>



1	<u>Over \$48,000 but</u>	<u>\$3,214.00 plus 8.25% of</u>
2	<u>not over \$200,000</u>	<u>excess over \$48,000</u>
3	<u>Over \$200,000 but</u>	<u>\$ _____ plus 11% of</u>
4	<u>not over \$400,000</u>	<u>excess over \$200,000</u>
5	<u>Over \$400,000</u>	<u>\$ _____ plus 13.55% of</u>
6		<u>excess over \$400,000.</u>

7 (d) The tax imposed by section 235-2.45 on estates and  
8 trusts shall be determined in accordance with the following table:

9 In the case of any taxable year beginning after  
10 December 31, 2001:

11	If the taxable income is:	The tax shall be:
12	Not over \$2,000	1.40% of taxable income
13	Over \$2,000 but	\$28.00 plus 3.20% of
14	not over \$4,000	excess over \$2,000
15	Over \$4,000 but	\$92.00 plus 5.50% of
16	not over \$8,000	excess over \$4,000
17	Over \$8,000 but	\$312.00 plus 6.40% of
18	not over \$12,000	excess over \$8,000
19	Over \$12,000 but	\$568.00 plus 6.80% of
20	not over \$16,000	excess over \$12,000
21	Over \$16,000 but	\$840.00 plus 7.20% of
22	not over \$20,000	excess over \$16,000





1	Over \$20,000 but	\$1,128.00 plus 7.60% of
2	not over \$30,000	excess over \$20,000
3	Over \$30,000 but	\$1,888.00 plus 7.90% of
4	not over \$40,000	excess over \$30,000
5	Over \$40,000	\$2,678.00 plus 8.25% of
6		excess over \$40,000.

7 In the case of any taxable year beginning after  
8 December 31, 2009:

9	<u>If the taxable income is:</u>	<u>The tax shall be:</u>
10	<u>Not over \$2,000</u>	<u>1.40% of taxable income</u>
11	<u>Over \$2,000 but</u>	<u>\$28.00 plus 3.20% of</u>
12	<u>not over \$4,000</u>	<u>excess over \$2,000</u>
13	<u>Over \$4,000 but</u>	<u>\$92.00 plus 5.50% of</u>
14	<u>not over \$8,000</u>	<u>excess over \$4,000</u>
15	<u>Over \$8,000 but</u>	<u>\$312.00 plus 6.40% of</u>
16	<u>not over \$12,000</u>	<u>excess over \$8,000</u>
17	<u>Over \$12,000 but</u>	<u>\$568.00 plus 6.80% of</u>
18	<u>not over \$16,000</u>	<u>excess over \$12,000</u>
19	<u>Over \$16,000 but</u>	<u>\$840.00 plus 7.20% of</u>
20	<u>not over \$20,000</u>	<u>excess over \$16,000</u>
21	<u>Over \$20,000 but</u>	<u>\$1,128.00 plus 7.60% of</u>
22	<u>not over \$30,000</u>	<u>excess over \$20,000</u>



1	<u>Over \$30,000 but</u>	<u>\$1,888.00 plus 7.90% of</u>
2	<u>not over \$40,000</u>	<u>excess over \$30,000</u>
3	<u>Over \$40,000 but</u>	<u>\$2,678.00 plus 8.25% of</u>
4	<u>not over \$200,000</u>	<u>excess over \$40,000</u>
5	<u>Over \$200,000 but</u>	<u>\$ plus 10.55% of</u>
6	<u>not over \$400,000</u>	<u>excess over \$200,000</u>
7	<u>Over \$400,000</u>	<u>\$ plus 13.55% of</u>
8		<u>excess over \$400,000."</u>

PART III

10 SECTION 4. The purpose of this part is to close corporate  
11 tax loopholes to provide a viable means of restoring funding for  
12 education and other high need and high priority programs.

13 SECTION 5. Section 235-7, Hawaii Revised Statutes, is  
14 amended by amending subsection (d) to read as follows:

15 "(d) (1) For taxable years ending before January 1, 1967,  
16 the net operating loss deductions allowed as  
17 carrybacks and carryovers by the Internal Revenue Code  
18 shall not be allowed. In lieu thereof the net  
19 operating loss deduction shall consist of the excess  
20 of the deductions allowed by this chapter over the  
21 gross income, computed with the modifications  
22 specified in paragraphs (1) to (4) of section 172(d)



1 of the Internal Revenue Code, and with the further  
2 modification stated in paragraph (3) hereof; and shall  
3 be allowed as a deduction in computing the taxable  
4 income of the taxpayer for the succeeding taxable  
5 year;

6 (2) (A) With respect to net operating loss deductions  
7 resulting from net operating losses for taxable  
8 years ending after December 31, 1966, the net  
9 operating loss deduction provisions of the  
10 Internal Revenue Code shall apply; provided that  
11 there shall be no net operating loss deduction  
12 carried back to any taxable year ending prior to  
13 January 1, 1967;

14 (B) In the case of a taxable year beginning in 1966  
15 and ending in 1967, the entire amount of all net  
16 operating loss deductions carried back to the  
17 taxable year shall be limited to that portion of  
18 taxable income for such taxable year which the  
19 number of days in 1967 bears to the total days in  
20 the taxable year ending in 1967; and

21 (C) The computation of any net operating loss  
22 deduction for a taxable year covered by this



1 subsection shall require the further  
2 modifications stated in paragraphs (3), (4), and  
3 (5) of this subsection;

4 (3) In computing the net operating loss deduction allowed  
5 by this subsection, there shall be included in gross  
6 income the amount of interest which is excluded from  
7 gross income by subsection (a), decreased by the  
8 amount of interest paid or accrued which is disallowed  
9 as a deduction by subsection (e). . In determining the  
10 amount of the net operating loss deduction under this  
11 subsection of any corporation, there shall be  
12 disregarded the net operating loss of such corporation  
13 for any taxable year for which the corporation is an  
14 electing small business corporation;

15 (4) No net operating loss carryback or carryover shall be  
16 allowed by this chapter if not allowed under section  
17 172 of the Internal Revenue Code; provided that,  
18 notwithstanding any other law to the contrary, no net  
19 operating loss carryback or carryover shall be allowed  
20 after December 31, 2010;

21 (5) The election to relinquish the entire carryback period  
22 with respect to a net operating loss allowed under



1 section 172(b)(3)(C) of the Internal Revenue Code  
2 shall be operative for the purposes of this chapter;  
3 provided that no taxpayer shall make such an election  
4 as to a net operating loss of a business where such  
5 net operating loss occurred in the taxpayer's business  
6 prior to the taxpayer entering business in this State;  
7 and

8 (6) The five-year carryback period for net operating  
9 losses for any taxable year ending during 2001 and  
10 2002 in section 172(b)(1)(H) of the Internal Revenue  
11 Code shall not be operative for purposes of this  
12 chapter."

13 SECTION 6. Section 235-71, Hawaii Revised Statutes, is  
14 amended by amending subsection (a) to read as follows:

15 "(a) A tax at the rates herein provided shall be assessed,  
16 levied, collected, and paid for each taxable year on the taxable  
17 income of every corporation, including a corporation carrying on  
18 business in partnership, except that in the case of a regulated  
19 investment company the tax is as provided by subsection (b) and  
20 further that in the case of a real estate investment trust as  
21 defined in section 856 of the Internal Revenue Code of 1954 the  
22 tax is as provided in subsection (d). "Corporation" includes



1 any professional corporation incorporated pursuant to chapter  
2 415A.

3 The tax on all taxable income shall be at the rate of 4.4  
4 per cent if the taxable income is not over \$25,000, 5.4 per cent  
5 if over \$25,000 but not over \$100,000, and on all over \$100,000,  
6 6.4 per cent [-]; provided that after December 31, 2010, no tax  
7 under this part shall be assessed for less than \$250."

8 SECTION 7. Section 235-125, Hawaii Revised Statutes, is  
9 amended by amending its title and subsection (a) to read as  
10 follows:

11 "~~[§]235-125 [§]~~ Carryforwards and carrybacks; loss  
12 limitation[-]; prohibition. (a) Carryforwards and carrybacks  
13 to and from taxable periods of an S corporation shall be  
14 restricted in the manner provided in section 1371(b) of the  
15 Internal Revenue Code.

16 Notwithstanding any other law to the contrary, carrybacks  
17 for an S corporation are prohibited under this chapter after  
18 December 31, 2010."

19 SECTION 8. The Hawaii Revised Statutes is amended to adopt  
20 the multistate tax commission's proposed combined reporting  
21 definition.

22 PART IV



1 SECTION 9. The purpose of this part is to tax capital  
2 gains at earned income tax rates.

3 SECTION 10. Section 235-51, Hawaii Revised Statutes, is  
4 amended by amending subsection (f) to read as follows:

5 "(f) If a taxpayer has a net capital gain for any taxable  
6 year to which this subsection applies, then the tax imposed by  
7 this section shall not exceed the sum of:

8 (1) The tax computed at the rates and in the same manner  
9 as if this subsection had not been enacted on the  
10 greater of:

11 (A) The taxable income reduced by the amount of net  
12 capital gain, or

13 (B) The amount of taxable income taxed at a rate  
14 below 7.25 per cent, plus

15 (2) A tax of 7.25 per cent of the amount of taxable income  
16 in excess of the amount determined under paragraph

17 (1) [~~-~~];

18 provided that after December 31, 2010, all capital gains shall  
19 be taxed according to the tax filing status and tax bracket  
20 under subsections (a) through (d) that applies to the taxpayer.

21 This subsection shall apply to individuals, estates, and  
22 trusts for taxable years beginning after December 31, 1986."



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PART V

SECTION 11. The purpose of this part is to enhance public disclosure to:

- (1) Increase school capacity and accountability by improving the adequacy and equity of school funding in the State; and
- (2) Promote school success by improving the foundation provided by the economy and tax structure of the State.

SECTION 12. The department of education shall conduct a study, supported by statistical information and a sound methodology, by June 30 in every even-numbered year, on the adequacy and equity of school funding in the State and the extent that adequacy and equity have increased or declined over the previous two years. The study shall include an analysis of the factors contributing to inadequacy and inequity. The department shall publish the data on which the study is based and report its findings and recommendations to the legislature no later than twenty days prior to the convening of every odd numbered year regular session.

SECTION 13. The department of taxation shall conduct a study, supported by statistical information and a sound



1 methodology, by June 30 in every odd-numbered year, on the  
2 equity and progressivity of state and local taxes, including:

3 (1) An analyses of the equity and progressivity of types  
4 of tax and the level of government that levies the  
5 tax;

6 (2) An analyses of the aggregate impact of taxes on  
7 taxpayers, grouped by quintile according to income or  
8 property ownership, as appropriate, expressed as a per  
9 cent of the aggregate income or property holdings of  
10 that group; and

11 (3) The data used to determine the equity and  
12 progressivity of state and county taxes.

13 The study shall also include other indicators and analyses of  
14 equity and progressivity as the department deems appropriate.

15 The department shall report its findings and recommendations to  
16 the legislature no later than twenty days prior to the convening  
17 of every even numbered year regular session.

18 SECTION 14. The department of taxation shall conduct an  
19 annual study on tax expenditures related to business tax  
20 incentives and abatements, including explicit information about  
21 the individuals or entities that receive business tax incentives  
22 or abatements, amounting to, or projected to amount to, over



1 \$2,000,000 in any five-year period. The department shall  
2 include the source and nature of the tax incentive or abatement  
3 in each case in its study.

4 The department shall report its findings and  
5 recommendations to the legislature no later than twenty days  
6 prior to the convening of every regular session.

7 SECTION 15. (a) There is hereby created a state tax  
8 structure, economic development, and funding for schools  
9 commission, that shall be an independent agency of state  
10 government that shall be administratively attached to the  
11 department of business, economic development and tourism. The  
12 commission shall exercise the following powers and duties:

13 (1) Oversee the design and data analyses of studies with  
14 respect to:

15 (A) Adequacy and equity in school funding;

16 (B) Equity and progressivity of state and county  
17 taxes; and

18 (C) Existing and prospective tax expenditures related  
19 to business tax incentives and abatements and  
20 their impact on state and local economies;

21 (2) Publish the studies under sections 14 and 15 of this  
22 Act and any other additional reports on:



1 (A) Equity and progressivity of state and local  
2 taxes; and

3 (B) Business tax incentives and abatements, as the  
4 commission shall deem appropriate; and

5 (3) Disclose and publish information relevant to any  
6 proposed tax incentives or abatements in a timely  
7 manner, in proceedings of state or local governments  
8 or otherwise, including analyses of the impact of any  
9 proposed changes in tax laws or rules on:

10 (A) Adequacy and equity of school funding; and

11 (B) The equity and progressivity of state and county  
12 tax structures.

13 (b) The commission shall be composed of nine members,  
14 consisting of three public school educators, three community  
15 leaders, and three parents of public school students; provided  
16 that not more than five members shall be affiliated with the  
17 same political party. Members shall not receive any salary but  
18 shall be compensated for necessary expenses.

19 (c) The governor, with the advice and consent of the  
20 senate, shall appoint the members of the commission pursuant to  
21 section 26-34. At least two members shall have been admitted to  
22 professional practice as an attorney or accountant in the State



1 and shall have, for a total of six years preceding their  
2 appointments, engaged in the practice of state and county tax  
3 law or accountancy in this State.

4 (d) The term of commissioners shall be for six years,  
5 commencing on the fifteenth day of February and ending on the  
6 fourteenth day of February. Each member shall hold office from  
7 the date of an appointment until the end of the term for which  
8 the member was appointed. Any member appointed to fill a  
9 vacancy occurring prior to the expiration of the term for which  
10 the member's predecessor was appointed, shall hold office for  
11 the remainder of the unexpired term.

12 (e) Any member may continue in office subsequent to the  
13 expiration date of the member's term until the member's  
14 successor takes office, or until a period of sixty days has  
15 elapsed, whichever occurs first.

16 (f) The commission may appoint staff necessary to  
17 effectuate the purposes of this part. Each employee of the  
18 commission shall not hold any position of trust or profit or  
19 engage in any occupation, employment, or business interfering  
20 with or inconsistent with the employee's duty. No member or  
21 employee shall serve on or under any committee of any political  
22 party.





**Report Title:**

Income Tax; Corporate Tax Exemptions; Capital Gains Tax; Tax Reform Commission

**Description:**

Creates higher income tax brackets and rates for high-income individual taxpayers. Eliminates certain corporate tax exemptions. Provides for taxation of capital gains as ordinary income. Creates commission to provide a more equitable and progressive tax system. Also provides a means to fund public education and other high priority programs.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

