
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,
13 to compile the necessary information to enable the legislature
14 to evaluate tax credits and exemptions with consistent
15 standards, and to sunset those credits and exemptions that the
16 department of taxation and legislature do not believe should be
17 extended. Over time, as economic conditions change, different

1 combinations of tax credits and tax exemptions serve as the
2 State's key tools to promote or discourage particular behavior
3 among residents and 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 comparable evaluation
16 data as the department of business, economic development, and
17 tourism's renewable energies credit analysis, or the State of
18 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 or tax exemptions and submit an
18 evaluation of the fiscal impacts and economic benefits of each
19 credit and exemption required by this section to the legislature
20 by no later than twenty days prior to the convening of the
21 regular session of 2010; provided that if the department of
22 taxation, with the assistance of the department of business,

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

- 10 (1) Section 235-15, Hawaii Revised Statutes (tax credits
11 to promote the purchase of child passenger restraint
12 systems);
- 13 (2) Section 235-110.2, Hawaii Revised Statutes (credit for
14 school repair and maintenance);
- 15 (3) Section 237-24, Hawaii Revised Statutes (general
16 excise tax; amounts not taxable), except for section
17 237-24(6) (salaries or wages for services rendered);
- 18 (4) Section 237-24.3, Hawaii Revised Statutes (general
19 excise tax; additional amounts not taxable);
- 20 (5) Section 237-24.9, Hawaii Revised Statutes (general
21 excise tax; aircraft service and maintenance
22 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 or tax exemptions and
16 submit an evaluation of the fiscal impacts and economic benefits
17 of each credit and exemption required by this section to the
18 legislature by no later than twenty days prior to the convening
19 of the regular session of 2011; provided that if the department
20 of taxation, with the assistance of the department of business,
21 economic development, and tourism, does not submit a complete
22 and accurate evaluation of the following tax credits and tax

1 exemptions by no later than twenty days prior to the convening
2 of the regular session of 2012, thereby curtailing the
3 legislature's ability to assess the tax credit or tax exemption
4 pursuant to the department of taxation's recommendations, then
5 each of the applicable tax credits and tax exemptions shall not
6 be available to be claimed for taxable years beginning after
7 December 31, 2011:

- 8 (1) Section 235-110.6, Hawaii Revised Statutes (fuel tax
9 credit for commercial fishers);
- 10 (2) Section 237-16.8, Hawaii Revised Statutes (general
11 excise tax; exemption of certain convention,
12 conference, and trade show fees);
- 13 (3) Section 237-23.5, Hawaii Revised Statutes (general
14 excise tax; related entities; common paymaster;
15 certain exempt transactions);
- 16 (4) Section 237-24.5, Hawaii Revised Statutes (general
17 excise tax; additional exemptions);
- 18 (5) Section 237-24.7, Hawaii Revised Statutes (general
19 excise tax; additional amounts not taxable);
- 20 (6) Section 237-24.75, Hawaii Revised Statutes (general
21 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 or tax exemptions and
13 submit an evaluation of the fiscal impacts and economic benefits
14 of each credit and exemption required by this section to the
15 legislature by no later than twenty days prior to the convening
16 of the regular session of 2012; provided that if the department
17 of taxation, with the assistance of the department of business,
18 economic development, and tourism, does not submit a complete
19 and accurate evaluation of the following tax credits and tax
20 exemptions by no later than twenty days prior to the convening
21 of the regular session of 2013, thereby curtailing the
22 legislature's ability to assess the tax credit or tax exemption

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

- 5 (1) Section 209E-10, Hawaii Revised Statutes (state
6 business tax credit);
- 7 (2) Section 209E-11, Hawaii Revised Statutes (state
8 general excise exemptions);
- 9 (3) Section 235-55.85, Hawaii Revised Statutes (refundable
10 food/excise tax credit);
- 11 (4) Section 235-55.91, Hawaii Revised Statutes (credit for
12 employment of vocational rehabilitation referrals);
- 13 (5) Section 235-71, Hawaii Revised Statutes (tax on
14 corporations; rates; credit of shareholder of
15 regulated investment company);
- 16 (6) Section 237-26, Hawaii Revised Statutes (general
17 excise tax; exemption of certain scientific contracts
18 with the United States);
- 19 (7) Section 237-27, Hawaii Revised Statutes (general
20 excise tax; exemption of certain petroleum refiners);
- 21 (8) Section 237-27.5, Hawaii Revised Statutes (general
22 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 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 or tax exemptions and
10 submit an evaluation of the fiscal impacts and economic benefits
11 of each credit and exemption required by this section to the
12 legislature by no later than twenty days prior to the convening
13 of the regular session of 2013; provided that if the department
14 of taxation, with the assistance of the department of business,
15 economic development, and tourism, does not submit a complete
16 and accurate evaluation of the following tax credits by no later
17 than twenty days prior to the convening of the regular session
18 of 2014, thereby curtailing the legislature's ability to assess
19 the tax credit or tax exemption 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 (9) of this subsection and the tax exemption in paragraph
3 (7) of this subsection shall not apply to those projects
4 approved before January 1, 2014:

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

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

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

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

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

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

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

20 (8) Section 237-23, Hawaii Revised Statutes (general
21 excise tax; exemptions, persons exempt, applications

1 for exemption), except for section 237-23(a)(1),
2 Hawaii Revised Statutes (public service companies);
3 (9) Section 237-29, Hawaii Revised Statutes (general
4 excise tax; exemptions for certified or approved
5 housing projects);
6 (10) Section 239-6.5, Hawaii Revised Statutes (public
7 service company tax; tax credit for lifeline telephone
8 service subsidy); and
9 (11) Section 241-4.7, Hawaii Revised Statutes (low-income
10 housing; income tax credit).

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

20 If the department of taxation recommends that a tax credit
21 or tax exemption should be modified, it shall include in its
22 report, with the assistance of the departments listed in

1 subsection (f)(2), the proposed draft legislation to implement
2 the recommended modifications.

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

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

19 (f) In evaluating the tax credits and tax exemptions the
20 department of taxation shall:

21 (1) Obtain from the department of business, economic
22 development, and tourism an economic impact analysis;

- 1 (2) Establish a technical advisory group, which may
2 include the department of labor and industrial
3 relations, department of agriculture, department of
4 commerce and consumer affairs, department of
5 transportation, department of human services, and
6 department of business, economic development, and
7 tourism, to help identify and develop the data
8 elements needed for the analyses; and
- 9 (3) Collect, process, and analyze data from federal,
10 state, and local government sources.

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

- 16 (1) Section 235-17, Hawaii Revised Statutes (motion
17 picture, digital media, and film production income tax
18 credit), one year before the expiration date, as
19 specified in that section;
- 20 (2) Section 235-110.51, Hawaii Revised Statutes
21 (technology infrastructure renovation tax credit), one

1 year before the expiration date, as specified in that
2 section;

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

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

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

18 SECTION 5. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 6. This Act shall take effect on July 1, 2009.

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 and for the legislature to implement those recommendations prior to the mandate for those tax credits and tax exemptions to sunset. (SD1)