

JAN 28 2009

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# 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 the key to Hawaii's  
2 future success and the backbone of a stronger economy is a  
3 community filled with highly-educated, highly-qualified  
4 individuals. A strong public school system that equips our  
5 keiki with the knowledge, skills, and experiences necessary to  
6 succeed is critical to enhancing Hawaii's standing in an  
7 increasingly competitive world.

8           The legislature further finds that meeting this challenge  
9 requires adequate, sustained funding of public education. Yet,  
10 a study several years ago found that Hawaii's schools were  
11 underfunded by \$278,000,000. In 2008, the executive budget  
12 proposes to cut \$40,000,000 from our schools and students  
13 programs, further eroding our commitment to public education.

14           In addition, the legislature finds that Hawaii's current  
15 tax structure is regressive, with lower and middle income  
16 taxpayers shouldering the major portion of the tax burden.  
17 While there have been numerous studies and proposals suggesting



1 ways to shift the burden to those that can afford to pay more,  
2 little has been accomplished.

3 In recent years, the legislature has passed significant  
4 initiatives to strengthen the public school system with  
5 resources, procedures, and opportunities to make effective  
6 change in the manner by which schools are organized and children  
7 learn. The Reinventing Education Act of 2004 directed funds to  
8 schools based on the needs of their populations, taking into  
9 account economic hardship, English as a second language, special  
10 needs, and mobility. Additionally, the legislature has provided  
11 a governance structure to charter schools to allow the decision  
12 makers to be closer to their constituency and placed an emphasis  
13 on learning academies and experiential or applied learning  
14 programs.

15 If these initiatives are to succeed fully, significant  
16 long-term revenue sources must be developed and directed to  
17 public schools through the weighted school formula, support for  
18 classroom teachers, and facilities improvements.

19 Within the department of education, the backlog for repair  
20 and maintenance continues to be a problem. In 2001, the  
21 legislature appropriated funds to help mitigate the department  
22 of education's estimated \$640,000,000 backlog of repair and



1 maintenance projects. By 2008, the estimated backlog of repair  
2 and maintenance projects was approximately \$420,000,000, which  
3 included recurring major and minor repairs, ongoing cycle  
4 maintenance, service and contract maintenance, nonrecurring  
5 projects, and emergency repairs.

6 The \$1.8 billion economic stimulus plan unveiled by the  
7 governor in December 2008, includes nearly \$318,000,000 for  
8 public school and library projects ready to begin within the  
9 next eighteen months - projects which were previously budgeted  
10 and approved by the legislature, but not released by the  
11 governor. While the release of these funds is a step forward,  
12 it does not represent a long-term commitment to reducing the  
13 backlog.

14 Hawaii's public schools need a consistent, long-term source  
15 of funds to deal with mounting infrastructure deficiencies.  
16 Public schools statewide are plagued with nonexistent or  
17 inadequate air conditioning in classrooms where soaring  
18 temperatures makes learning difficult or impossible; inadequate  
19 electrical systems that cannot support new technologies;  
20 outdated science and technology laboratories and equipment that  
21 hamper efforts to teach twenty-first century skills; and other



1 facilities that have a direct - and often negative impact - on  
2 student learning.

3 Adequate funding for these changes and initiatives  
4 continues to prove to be a challenge. Increased mandates  
5 resulting from the No Child Left Behind Act and the Felix  
6 consent decree, among others, have contributed to the lack of  
7 adequate funds to support public schools in the State. Despite  
8 these increased mandates, over the past few decades, the  
9 percentage of the budget allocated to education has consistently  
10 decreased as well.

11 In a poll conducted by the Honolulu Advertiser in 2003,  
12 seventy-seven per cent of those polled indicated that they would  
13 pay more in taxes to improve the quality of public education.  
14 The poll also indicated that seventy-six per cent would pay more  
15 taxes to make repairs to public schools. A 2004 poll, conducted  
16 for Good Beginnings Alliance, indicated that sixty per cent of  
17 individuals polled favored a tax increase to support universal  
18 preschool. The legislature believes that Hawaii residents have  
19 and will continue to demonstrate a willingness to support an  
20 increase in taxes to support public education in the State.

21 The legislature also understands that the public wants to  
22 know how - and how well - its money is being spent. As the



1 federal government discovered in its recent massive bailout of  
2 the financial industry, taxpayers are demanding the specifics of  
3 how their money is being spent. To achieve the "most bang for  
4 the buck", education funding should go directly to the schools  
5 where it can be used to address the needs of the school or  
6 school complex. Taxpayers also want to know that any additional  
7 moneys they direct to the public schools stay just that -  
8 additional moneys - and are not an excuse to cut general funds  
9 or other spending for education, or to cut the \_\_\_\_\_ per cent  
10 of the general funds allocated to education funding.

11 Tax reform, which not only includes increasing the general  
12 excise tax, but also provides tax relief, will benefit the  
13 majority of taxpayers, particularly in the lower income tax  
14 brackets, through an increased standard deduction amount,  
15 exemptions from the general excise tax for certain goods and  
16 services, and tax credits, as well as by ensuring the delivery  
17 of high-quality education and state-of-the-art facilities for  
18 our keiki.

19 The purpose of this Act is to provide a sustained source of  
20 funding for public education through a carefully balanced tax  
21 package, by:



- 1           (1) Increasing the four per cent general excise tax, with
- 2                   a portion of the increased revenues allocated for
- 3                   public education;
- 4           (2) Offsetting the effects of the tax increase by
- 5                   establishing a general excise tax exemption for:
- 6                   (A) Food;
- 7                   (B) Medical expenses, including nonprescription
- 8                           medications, prescription eyewear, and physician
- 9                           and dental services; and
- 10                  (C) A portion of rental expenses;
- 11          (3) Establishing tax credits, including:
- 12                  (A) A tax credit for individuals who volunteer their
- 13                           services at public schools; and
- 14                  (B) An earned income tax credit;
- 15          (4) Increasing the state standard deduction amounts; and
- 16          (5) Establishing an education funding commission to
- 17                   provide oversight for general excise tax revenues
- 18                   deposited into the education special fund established
- 19                   in this Act.

20           SECTION 2. Chapter 235, Hawaii Revised Statutes, is

21 amended by adding two new sections to be appropriately

22 designated and to read as follows:



1           "§235-    Credit for general volunteer services performed  
2 for the public schools. (a) Each individual taxpayer who files  
3 an individual income tax return for a taxable year, and who is  
4 not claimed or is not otherwise eligible to be claimed as a  
5 dependent by another for state or federal income tax purposes,  
6 may claim a nonrefundable credit against the tax otherwise due  
7 under this chapter in the amount of \$                   , provided that  
8 the taxpayer performed general volunteer services for at least  
9                   hours in any taxable year for public schools.

10           (b) If the tax credit under this section exceeds the  
11 individual's tax liability, the excess of credit over liability  
12 shall not be refunded to the taxpayer. All claims, including  
13 any amended claims, for a tax credit under this section shall be  
14 filed on or before the end of the twelfth month following the  
15 close of the taxable year for which the credit may be claimed.  
16 Failure to comply with the foregoing provision shall constitute  
17 a waiver of the right to claim the credit.

18           (c) Only general volunteer services performed for public  
19 schools shall qualify for the credit. No credit shall be  
20 granted for volunteer services provided by an individual that  
21 are normally and customarily performed by a paid employee of  
22 public schools for which the individual is providing services.



1        For purposes of this section "volunteer services" shall  
2 include:

3        (1) Services provided for the public schools by a non-  
4 salaried individual; or

5        (2) Services provided for the public schools by a salaried  
6 individual that are outside of that individual's  
7 duties as a salaried employee of the department of  
8 education.

9        (d) The director shall provide by rule a method of  
10 documenting the actual performance by a taxpayer of the hours of  
11 general volunteer services required to establish eligibility for  
12 the tax credit authorized in this section.

13        (e) The department of taxation shall prepare forms as may  
14 be necessary to claim the credit under this section.

15        **\$235- Earned income tax credit.**    (a) Each resident  
16 individual taxpayer who:

17        (1) Files an individual income tax return for a taxable  
18 year; and

19        (2) Is not claimed or is not eligible to be claimed as a  
20 dependent by another taxpayer for income tax purposes;

21 may claim a refundable earned income tax credit. The tax  
22 credit, for the appropriate taxable year, shall be equal to





1 twenty per cent of the earned income credit allowed under  
2 Section 32 of the Internal Revenue Code and reported as such on  
3 the resident individual's federal income tax return.

4 (b) In the case of a part-year resident, the tax credit  
5 shall equal the amount of the tax credit calculated in  
6 subsection (a) multiplied by the ratio of adjusted gross income  
7 attributed to this State to the entire adjusted gross income  
8 computed without regard to source in the State pursuant to  
9 section 235-5.

10 (c) For purposes of claiming the tax credit allowed by  
11 this section, a resident individual taxpayer shall use the same  
12 filing status on the taxpayer's Hawaii income tax return as used  
13 on the taxpayer's federal income tax return for the taxable  
14 year. In the case of a husband and wife filing separately, the  
15 credit allowed may be applied against the income tax liability  
16 of either, or divided between them, as they elect.

17 (d) The earned income tax credit shall be reduced by other  
18 tax credits allowed under this chapter. If the tax credit under  
19 this section exceeds the taxpayer's income tax liability, the  
20 excess of tax credit over liability shall be refunded to the  
21 taxpayer; provided that no refund or payment on account of the



1 tax credit allowed by this section shall be made for amounts  
2 less than \$1.

3 (e) All claims, including any amended claims for tax  
4 credits under this section, shall be filed on or before the end  
5 of the twelfth month following the close of the taxable year for  
6 which the tax credit may be claimed. Failure to comply with  
7 this subsection shall constitute a waiver of the right to claim  
8 the tax credit.

9 (f) The director of taxation:

10 (1) Shall prepare such forms as may be necessary to claim  
11 a tax credit under this section;

12 (2) May require proof of the claim for the tax credit;

13 (3) Shall alert eligible taxpayers of the tax credit using  
14 appropriate and available means;

15 (4) Shall prepare an annual report to the governor and  
16 legislature containing:

17 (A) The number of credits granted for the prior  
18 calendar year;

19 (B) The total amount of the credits granted; and

20 (C) The average value of the credits granted to  
21 taxpayers whose earned income falls within

22 various income ranges; and



1       (5) May adopt rules pursuant to chapter 91 to effectuate  
2           this section.

3       (g) On a regular basis, the director of taxation, with the  
4       assistance of the director of human services, shall calculate  
5       the value of the refundable portion of the tax credits provided  
6       under this section that qualifies for reimbursement from  
7       temporary assistance for needy families funds. The director of  
8       taxation shall provide the director of human services with such  
9       tax credit records and information as are necessary to support  
10       draws of funds. The director of human services shall reimburse  
11       the director of taxation for the costs of providing the  
12       information required by this section.

13       (h) Temporary assistance for needy families funds are  
14       appropriated, as provided by law in the Temporary Assistance for  
15       Needy Families Authorization Act, to the director of human  
16       services based on calculations under subsection (g) that qualify  
17       for reimbursement from the temporary assistance for needy  
18       families funds for income tax refunds. The draws of temporary  
19       assistance for needy families funds shall be made each fiscal  
20       quarter based on calculations of credits authorized by the  
21       director of taxation and shall be deposited to the credit of the  
22       general fund."



1 SECTION 3. Chapter 237, Hawaii Revised Statutes, is  
2 amended by adding four new sections to be appropriately  
3 designated and to read as follows:

4 "§237- Exemption of food items. (a) There shall be  
5 exempted from, and excluded from the measure of, the taxes  
6 imposed by this chapter all of the gross proceeds or income  
7 arising from the manufacture, production, packaging, and sale of  
8 food items within the State.

9 (b) As used in this section, "food items" means any food  
10 or food product for home consumption except alcoholic beverages,  
11 tobacco, and food products prepared at the place of sale or at  
12 another location and sold primarily for immediate or nearly  
13 immediate consumption. In the case of those persons who are  
14 sixty-five years of age or older or who receive supplemental  
15 security income benefits under Title XVI of the Social Security  
16 Act (42 U.S.C. §1381 et. seq.), and their spouses, "food items"  
17 includes meals prepared by and served in senior citizens'  
18 centers, apartment buildings occupied primarily by senior  
19 citizens, private nonprofit establishments (eating or otherwise)  
20 that feed senior citizens, private establishments that contract  
21 with the appropriate agency of the State to offer meals for  
22 senior citizens at concessional prices, and meals prepared for



1 and served to residents of federally subsidized housing for the  
2 elderly.

3 The phrase "food items" may be further defined by the  
4 department of taxation by rule through the enumeration of items  
5 in rules or informational releases; provided that the department  
6 of taxation shall consult with the federal Food and Nutrition  
7 Service of the United States Department of Agriculture in  
8 further defining the phrase "food items" for food stamp  
9 purposes.

10 §237- Exemption of over-the-counter nonprescription  
11 medications and prescription eyewear. (a) There shall be  
12 exempted from, and excluded from the measure of, the taxes  
13 imposed by this chapter all of the gross proceeds or income  
14 arising from the sale of over-the-counter nonprescription  
15 medications and prescription eyewear.

16 (b) For purposes of this section:

17 "Over-the-counter nonprescription medications" means drugs  
18 or medications that can be purchased without a prescription (for  
19 example, aspirin, cough syrup, and laxatives).

20 "Prescription eyewear" means lenses, spectacles,  
21 eyeglasses, or appurtenances thereto requiring a written



1 prescription from a physician or optometrist duly licensed to  
2 practice.

3 §237- Exemption of physician and dentistry services.

4 (a) There shall be exempted from, and excluded from the measure  
5 of, the taxes imposed by this chapter all of the gross proceeds  
6 or income arising from the provision of physician or dentistry  
7 services.

8 (b) For purposes of this section:

9 "Dentistry" shall have the same meaning as in section  
10 448-1.

11 "Dentistry services" shall mean those services provided by  
12 or under the supervision of a person who practices dentistry.

13 "Physician" shall have the same meaning as under section  
14 327E-2.

15 "Physician services" shall mean those services provided by  
16 or under the supervision of a physician.

17 §237- Exemption of rent. (a) There shall be exempted  
18 from, and excluded from the measure of, the taxes imposed by  
19 this chapter all of the gross proceeds or income arising from  
20 the payment of rent; provided that the exemption shall be  
21 limited to the first \$ \_\_\_\_\_ of rent received for the  
22 occupancy of a dwelling place per month.



1        (b) For purposes of this section "rent" shall have the  
2 same meaning as in section 235-55.7."

3        SECTION 4. Chapter 302A, Hawaii Revised Statutes, is  
4 amended by adding two new sections to be appropriately  
5 designated and to read as follows:

6        "302A-A Education funding commission. (a) There is  
7 established within the department of education, for  
8 administrative purposes only, the education funding commission.  
9 The commission shall consist of eleven members. Nine voting  
10 members appointed by the governor pursuant to section 26-34;  
11 provided that:

12        (1) Three members shall be appointed from a list of  
13 nominees submitted by the president of the senate;

14        (2) Three members shall be appointed from a list of  
15 nominees submitted by the speaker of the house of  
16 representatives;

17        (3) Three members shall be appointed by the governor;

18        (4) Vacancies in these positions shall be filled in the  
19 same manner in which they were appointed; and

20        (5) Appointees shall include individuals representing the  
21 department of education, the business community, and  
22 the Hawaii P-20 initiative.



1 The superintendent of education and the chairperson of the board  
2 of education shall serve as ex officio, nonvoting members. The  
3 members of the commission shall serve without compensation but  
4 shall be reimbursed for expenses necessary for the performance  
5 of their duties.

6 (b) The commission shall establish dollar or percentage  
7 allocations, or a combination thereof, for moneys deposited into  
8 the education special fund established under section 302A-B for  
9 the following two-year period; provided that funds shall be  
10 allocated to the following purposes to support early education  
11 and public schools:

- 12 (1) Repair and maintenance projects;  
13 (2) Capital improvement projects;  
14 (3) Learning materials and technology and equipment;  
15 (4) The base per pupil allocation in the weighted student  
16 formula; and  
17 (5) Workforce training.

18 (c) The commission may seek assistance from the department  
19 and any other department or agency in conducting its review and  
20 formulating its allocation formula, including financial and  
21 management audits of the education special fund. All agencies





1 shall fully cooperate with the commission and provide any  
2 necessary information to the commission upon request.

3 (d) The commission shall submit a report of its findings  
4 and its fund allocations for the following two-year period to  
5 the legislature and the governor, no later than twenty days  
6 prior to the convening of the regular session of the legislature  
7 in even-numbered years, beginning with the regular session of  
8 2010; provided that the commission shall meet at least annually  
9 thereafter and prepare an annual report for the legislature and  
10 the governor, no later than twenty days prior to the convening  
11 of each regular session on the allocation and utilization of  
12 funds, including the actual related usage of funds.

13 (e) The new allocation distributions shall become  
14 effective July 1 of the next fiscal year and July 1 every two  
15 years thereafter.

16 **§302A-B Education special fund.** (a) There is created in  
17 the treasury of the State the education special fund, into which  
18 shall be deposited general excise tax revenues collected by the  
19 department of taxation under section 237-31.

20 (b) The education special fund shall be used solely for  
21 the support of early education and public schools. The funds



1 shall be allocated in the manner established by the education  
2 funding commission."

3 SECTION 5. Section 235-2.4, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

5 "(a) Section 63 (with respect to taxable income defined)  
6 of the Internal Revenue Code shall be operative for the purposes  
7 of this chapter, except that the standard deduction amount in  
8 section 63(c) of the Internal Revenue Code shall instead mean:

9 (1) [~~\$4,000~~] \$8,000 in the case of:

10 (A) A joint return as provided by section 235-93; or

11 (B) A surviving spouse (as defined in section 2(a) of  
12 the Internal Revenue Code);

13 (2) [~~\$2,920~~] \$5,840 in the case of a head of household (as  
14 defined in section 2(b) of the Internal Revenue Code);

15 (3) [~~\$2,000~~] \$4,000 in the case of an individual who is  
16 not married and who is not a surviving spouse or head  
17 of household; or

18 (4) [~~\$2,000~~] \$4,000 in the case of a married individual  
19 filing a separate return.

20 Section 63(c)(4) shall not be operative in this State.

21 Section 63(c)(5) shall be operative, except that the limitation  
22 on basic standard deduction in the case of certain dependents



1 shall be the greater of [~~\$500~~] \$1,000 or such individual's  
2 earned income. Section 63(f) shall not be operative in this  
3 State.

4 The standard deduction amount for nonresidents shall be  
5 calculated pursuant to section 235-5."

6 SECTION 6. Section 237-13, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "**§237-13 Imposition of tax.** There is hereby levied and  
9 shall be assessed and collected annually privilege taxes against  
10 persons on account of their business and other activities in the  
11 State measured by the application of rates against values of  
12 products, gross proceeds of sales, or gross income, whichever is  
13 specified, as follows:

14 (1) Tax on manufacturers.

15 (A) Upon every person engaging or continuing within  
16 the State in the business of manufacturing,  
17 including compounding, canning, preserving,  
18 packing, printing, publishing, milling,  
19 processing, refining, or preparing for sale,  
20 profit, or commercial use, either directly or  
21 through the activity of others, in whole or in  
22 part, any article or articles, substance or



1 substances, commodity or commodities, the amount  
2 of the tax to be equal to the value of the  
3 articles, substances, or commodities,  
4 manufactured, compounded, canned, preserved,  
5 packed, printed, milled, processed, refined, or  
6 prepared for sale, as shown by the gross proceeds  
7 derived from the sale thereof by the manufacturer  
8 or person compounding, preparing, or printing  
9 them, multiplied by one-half of one per cent.

10 (B) The measure of the tax on manufacturers is the  
11 value of the entire product for sale, regardless  
12 of the place of sale or the fact that deliveries  
13 may be made to points outside the State.

14 (C) If any person liable for the tax on manufacturers  
15 ships or transports the person's product, or any  
16 part thereof, out of the State, whether in a  
17 finished or unfinished condition, or sells the  
18 same for delivery to points outside the State  
19 (for example, consigned to a mainland purchaser  
20 via common carrier f.o.b. Honolulu), the value of  
21 the products in the condition or form in which  
22 they exist immediately before entering interstate



1 or foreign commerce, determined as hereinafter  
2 provided, shall be the basis for the assessment  
3 of the tax imposed by this paragraph. This tax  
4 shall be due and payable as of the date of entry  
5 of the products into interstate or foreign  
6 commerce, whether the products are then sold or  
7 not. The department shall determine the basis  
8 for assessment, as provided by this paragraph, as  
9 follows:

- 10 (i) If the products at the time of their entry  
11 into interstate or foreign commerce already  
12 have been sold, the gross proceeds of sale,  
13 less the transportation expenses, if any,  
14 incurred in realizing the gross proceeds for  
15 transportation from the time of entry of the  
16 products into interstate or foreign  
17 commerce, including insurance and storage in  
18 transit, shall be the measure of the value  
19 of the products;
- 20 (ii) If the products have not been sold at the  
21 time of their entry into interstate or  
22 foreign commerce, and in cases governed by



1 clause (i) in which the products are sold  
2 under circumstances such that the gross  
3 proceeds of sale are not indicative of the  
4 true value of the products, the value of the  
5 products constituting the basis for  
6 assessment shall correspond as nearly as  
7 possible to the gross proceeds of sales for  
8 delivery outside the State, adjusted as  
9 provided in clause (i), or if sufficient  
10 data are not available, sales in the State,  
11 of similar products of like quality and  
12 character and in similar quantities, made by  
13 the taxpayer (unless not indicative of the  
14 true value) or by others. Sales outside the  
15 State, adjusted as provided in clause (i),  
16 may be considered when they constitute the  
17 best available data. The department shall  
18 prescribe uniform and equitable rules for  
19 ascertaining the values;

20 (iii) At the election of the taxpayer and with the  
21 approval of the department, the taxpayer may  
22 make the taxpayer's returns under clause (i)



1 even though the products have not been sold  
2 at the time of their entry into interstate  
3 or foreign commerce; and

4 (iv) In all cases in which products leave the  
5 State in an unfinished condition, the basis  
6 for assessment shall be adjusted so as to  
7 deduct the portion of the value as is  
8 attributable to the finishing of the goods  
9 outside the State.

10 (2) Tax on business of selling tangible personal property;  
11 producing.

12 (A) Upon every person engaging or continuing in the  
13 business of selling any tangible personal  
14 property whatsoever (not including, however,  
15 bonds or other evidence of indebtedness, or  
16 stocks), there is likewise hereby levied, and  
17 shall be assessed and collected, a tax equivalent  
18 to [~~four~~] \_\_\_\_\_ per cent of the gross proceeds of  
19 sales of the business; provided that insofar as  
20 the sale of tangible personal property is a  
21 wholesale sale [~~under section 237-4(a)(8)~~], the  
22 sale shall be subject to section 237-13.3. Upon



1 every person engaging or continuing within this  
2 State in the business of a producer, the tax  
3 shall be equal to one-half of one per cent of the  
4 gross proceeds of sales of the business, or the  
5 value of the products, for sale, if sold for  
6 delivery outside the State or shipped or  
7 transported out of the State, and the value of  
8 the products shall be determined in the same  
9 manner as the value of manufactured products  
10 covered in the cases under paragraph (1) (C).

11 (B) Gross proceeds of sales of tangible property in  
12 interstate and foreign commerce shall constitute  
13 a part of the measure of the tax imposed on  
14 persons in the business of selling tangible  
15 personal property, to the extent, under the  
16 conditions, and in accordance with the provisions  
17 of the Constitution of the United States and the  
18 Acts of the Congress of the United States which  
19 may be now in force or may be hereafter adopted,  
20 and whenever there occurs in the State an  
21 activity to which, under the Constitution and  
22 Acts of Congress, there may be attributed gross





1 proceeds of sales, the gross proceeds shall be so  
2 attributed.

3 (C) No manufacturer or producer, engaged in such  
4 business in the State and selling the  
5 manufacturer's or producer's products for  
6 delivery outside of the State (for example,  
7 consigned to a mainland purchaser via common  
8 carrier f.o.b. Honolulu), shall be required to  
9 pay the tax imposed in this chapter for the  
10 privilege of so selling the products, and the  
11 value or gross proceeds of sales of the products  
12 shall be included only in determining the measure  
13 of the tax imposed upon the manufacturer or  
14 producer.

15 (D) When a manufacturer or producer, engaged in such  
16 business in the State, also is engaged in selling  
17 the manufacturer's or producer's products in the  
18 State at wholesale, retail, or in any other  
19 manner, the tax for the privilege of engaging in  
20 the business of selling the products in the State  
21 shall apply to the manufacturer or producer as  
22 well as the tax for the privilege of



1 manufacturing or producing in the State, and the  
2 manufacturer or producer shall make the returns  
3 of the gross proceeds of the wholesale, retail,  
4 or other sales required for the privilege of  
5 selling in the State, as well as making the  
6 returns of the value or gross proceeds of sales  
7 of the products required for the privilege of  
8 manufacturing or producing in the State. The  
9 manufacturer or producer shall pay the tax  
10 imposed in this chapter for the privilege of  
11 selling its products in the State, and the value  
12 or gross proceeds of sales of the products, thus  
13 subjected to tax, may be deducted insofar as  
14 duplicated as to the same products by the measure  
15 of the tax upon the manufacturer or producer for  
16 the privilege of manufacturing or producing in  
17 the State; provided that no producer of  
18 agricultural products who sells the products to a  
19 purchaser who will process the products outside  
20 the State shall be required to pay the tax  
21 imposed in this chapter for the privilege of  
22 producing or selling those products.



- 1           (E) A taxpayer selling to a federal cost-plus
- 2           contractor may make the election provided for by
- 3           paragraph (3) (C), and in that case the tax shall
- 4           be computed pursuant to the election,
- 5           notwithstanding this paragraph or paragraph (1)
- 6           to the contrary.
  
- 7           (F) The department, by rule, may require that a
- 8           seller take from the purchaser of tangible
- 9           personal property a certificate, in a form
- 10          prescribed by the department, certifying that the
- 11          sale is a sale at wholesale; provided that:
  
- 12           (i) Any purchaser who furnishes a certificate
- 13           shall be obligated to pay to the seller,
- 14           upon demand, the amount of the additional
- 15           tax that is imposed upon the seller whenever
- 16           the sale in fact is not at wholesale; and
  
- 17           (ii) The absence of a certificate in itself shall
- 18           give rise to the presumption that the sale
- 19           is not at wholesale unless the sales of the
- 20           business are exclusively at wholesale.
  
- 21          (3) Tax upon contractors.



1           (A) Upon every person engaging or continuing within  
2           the State in the business of contracting, the tax  
3           shall be equal to [~~four~~] \_\_\_\_\_ per cent of the  
4           gross income of the business.

5           (B) In computing the tax levied under this paragraph,  
6           there shall be deducted from the gross income of  
7           the taxpayer so much thereof as has been included  
8           in the measure of the tax levied under  
9           subparagraph (A), on:

10           (i) Another taxpayer who is a contractor, as  
11           defined in section 237-6;

12           (ii) A specialty contractor, duly licensed by the  
13           department of commerce and consumer affairs  
14           pursuant to section 444-9, in respect of the  
15           specialty contractor's business; or

16           (iii) A specialty contractor who is not licensed  
17           by the department of commerce and consumer  
18           affairs pursuant to section 444-9, but who  
19           performs contracting activities on federal  
20           military installations and nowhere else in  
21           this State;



1 provided that any person claiming a deduction  
2 under this paragraph shall be required to show in  
3 the person's return the name and general excise  
4 number of the person paying the tax on the amount  
5 deducted by the person.

6 (C) In computing the tax levied under this paragraph  
7 against any federal cost-plus contractor, there  
8 shall be excluded from the gross income of the  
9 contractor so much thereof as fulfills the  
10 following requirements:

11 (i) The gross income exempted shall constitute  
12 reimbursement of costs incurred for  
13 materials, plant, or equipment purchased  
14 from a taxpayer licensed under this chapter,  
15 not exceeding the gross proceeds of sale of  
16 the taxpayer on account of the transaction;  
17 and

18 (ii) The taxpayer making the sale shall have  
19 certified to the department that the  
20 taxpayer is taxable with respect to the  
21 gross proceeds of the sale, and that the  
22 taxpayer elects to have the tax on gross



1                   income computed the same as upon a sale to  
2                   the state government.

3           (D) A person who, as a business or as a part of a  
4           business in which the person is engaged, erects,  
5           constructs, or improves any building or  
6           structure, of any kind or description, or makes,  
7           constructs, or improves any road, street,  
8           sidewalk, sewer, or water system, or other  
9           improvements on land held by the person (whether  
10          held as a leasehold, fee simple, or otherwise),  
11          upon the sale or other disposition of the land or  
12          improvements, even if the work was not done  
13          pursuant to a contract, shall be liable to the  
14          same tax as if engaged in the business of  
15          contracting, unless the person shows that at the  
16          time the person was engaged in making the  
17          improvements the person intended, and for the  
18          period of at least one year after completion of  
19          the building, structure, or other improvements  
20          the person continued to intend to hold and not  
21          sell or otherwise dispose of the land or  
22          improvements. The tax in respect of the



1 improvements shall be measured by the amount of  
2 the proceeds of the sale or other disposition  
3 that is attributable to the erection,  
4 construction, or improvement of such building or  
5 structure, or the making, constructing, or  
6 improving of the road, street, sidewalk, sewer,  
7 or water system, or other improvements. The  
8 measure of tax in respect of the improvements  
9 shall not exceed the amount which would have been  
10 taxable had the work been performed by another,  
11 subject as in other cases to the deductions  
12 allowed by subparagraph (B). Upon the election  
13 of the taxpayer, this paragraph may be applied  
14 notwithstanding that the improvements were not  
15 made by the taxpayer, or were not made as a  
16 business or as a part of a business, or were made  
17 with the intention of holding the same. However,  
18 this paragraph shall not apply in respect of any  
19 proceeds that constitute or are in the nature of  
20 rent; all such gross income shall be taxable  
21 under paragraph (9); provided that insofar as the  
22 business of renting or leasing real property



1 under a lease is taxed under section 237-16.5,  
2 the tax shall be levied by section 237-16.5.

3 (4) Tax upon theaters, amusements, radio broadcasting  
4 stations, etc.

5 (A) Upon every person engaging or continuing within  
6 the State in the business of operating a theater,  
7 opera house, moving picture show, vaudeville,  
8 amusement park, dance hall, skating rink, radio  
9 broadcasting station, or any other place at which  
10 amusements are offered to the public, the tax  
11 shall be equal to [~~four~~] \_\_\_\_\_ per cent of the  
12 gross income of the business, and in the case of  
13 a sale of an amusement at wholesale under section  
14 237-4(a)(13), the tax shall be subject to section  
15 237-13.3.

16 (B) The department may require that the person  
17 rendering an amusement at wholesale take from the  
18 licensed seller a certificate, in a form  
19 prescribed by the department, certifying that the  
20 sale is a sale at wholesale; provided that:

21 (i) Any licensed seller who furnishes a  
22 certificate shall be obligated to pay to the





1 person rendering the amusement, upon demand,  
2 the amount of additional tax that is imposed  
3 upon the seller whenever the sale is not at  
4 wholesale; and

5 (ii) The absence of a certificate in itself shall  
6 give rise to the presumption that the sale  
7 is not at wholesale unless the person  
8 rendering the sale is exclusively rendering  
9 the amusement at wholesale.

10 (5) Tax upon sales representatives, etc. Upon every  
11 person classified as a representative or purchasing  
12 agent under section 237-1, engaging or continuing  
13 within the State in the business of performing  
14 services for another, other than as an employee, there  
15 is likewise hereby levied and shall be assessed and  
16 collected a tax equal to [~~four~~] \_\_\_\_\_ per cent of the  
17 commissions and other compensation attributable to the  
18 services so rendered by the person.

19 (6) Tax on service business.

20 (A) Upon every person engaging or continuing within  
21 the State in any service business or calling  
22 including professional services not otherwise



1 specifically taxed under this chapter, there is  
2 likewise hereby levied and shall be assessed and  
3 collected a tax equal to [~~four~~] \_\_\_\_\_ per cent of  
4 the gross income of the business, and in the case  
5 of a wholesaler under section 237-4(a)(10), the  
6 tax shall be equal to one-half of one per cent of  
7 the gross income of the business.

8 Notwithstanding the foregoing, a wholesaler under  
9 section 237-4(a)(10) shall be subject to section  
10 237-13.3.

11 (B) The department may require that the person  
12 rendering a service at wholesale take from the  
13 licensed seller a certificate, in a form  
14 prescribed by the department, certifying that the  
15 sale is a sale at wholesale; provided that:

16 (i) Any licensed seller who furnishes a  
17 certificate shall be obligated to pay to the  
18 person rendering the service, upon demand,  
19 the amount of additional tax that is imposed  
20 upon the seller whenever the sale is not at  
21 wholesale; and



1 (ii) The absence of a certificate in itself shall  
2 give rise to the presumption that the sale  
3 is not at wholesale unless the person  
4 rendering the sale is exclusively rendering  
5 services at wholesale.

6 (C) Where any person is engaged in the business of  
7 selling interstate or foreign common carrier  
8 telecommunication services within and without the  
9 State, other than as a home service provider, the  
10 tax shall be imposed on that portion of gross  
11 income received by a person from service which is  
12 originated or terminated in this State and is  
13 charged to a telephone number, customer, or  
14 account in this State notwithstanding any other  
15 state law (except for the exemption under section  
16 237-23(a)(1)) to the contrary. If, under the  
17 Constitution and laws of the United States, the  
18 entire gross income as determined under this  
19 paragraph of a business selling interstate or  
20 foreign common carrier telecommunication services  
21 cannot be included in the measure of the tax, the  
22 gross income shall be apportioned as provided in



1 section 237-21; provided that the apportionment  
2 factor and formula shall be the same for all  
3 persons providing those services in the State.

4 (D) Where any person is engaged in the business of a  
5 home service provider, the tax shall be imposed  
6 on the gross income received or derived from  
7 providing interstate or foreign mobile  
8 telecommunications services to a customer with a  
9 place of primary use in this State when such  
10 services originate in one state and terminate in  
11 another state, territory, or foreign country;  
12 provided that all charges for mobile  
13 telecommunications services which are billed by  
14 or for the home service provider are deemed to be  
15 provided by the home service provider at the  
16 customer's place of primary use, regardless of  
17 where the mobile telecommunications originate,  
18 terminate, or pass through; provided further that  
19 the income from charges specifically derived from  
20 interstate or foreign mobile telecommunications  
21 services, as determined by books and records that  
22 are kept in the regular course of business by the



1 home service provider in accordance with section  
2 239-24, shall be apportioned under any  
3 apportionment factor or formula adopted under  
4 subparagraph (C). Gross income shall not  
5 include:

6 (i) Gross receipts from mobile  
7 telecommunications services provided to a  
8 customer with a place of primary use outside  
9 this State;

10 (ii) Gross receipts from mobile  
11 telecommunications services that are subject  
12 to the tax imposed by chapter 239;

13 (iii) Gross receipts from mobile  
14 telecommunications services taxed under  
15 section 237-13.8; and

16 (iv) Gross receipts of a home service provider  
17 acting as a serving carrier providing mobile  
18 telecommunications services to another home  
19 service provider's customer.

20 For the purposes of this paragraph, "charges for  
21 mobile telecommunications services", "customer",  
22 "home service provider", "mobile



1 telecommunications services", "place of primary  
2 use", and "serving carrier" have the same meaning  
3 as in section 239-22.

4 (7) Tax on insurance producers. Upon every person engaged  
5 as a licensed producer pursuant to chapter 431, there  
6 is hereby levied and shall be assessed and collected a  
7 tax equal to 0.15 per cent of the commissions due to  
8 that activity.

9 (8) Tax on receipts of sugar benefit payments. Upon the  
10 amounts received from the United States government by  
11 any producer of sugar (or the producer's legal  
12 representative or heirs), as defined under and by  
13 virtue of the Sugar Act of 1948, as amended, or other  
14 Acts of the Congress of the United States relating  
15 thereto, there is hereby levied a tax of one-half of  
16 one per cent of the gross amount received; provided  
17 that the tax levied hereunder on any amount so  
18 received and actually disbursed to another by a  
19 producer in the form of a benefit payment shall be  
20 paid by the person or persons to whom the amount is  
21 actually disbursed, and the producer actually making a  
22 benefit payment to another shall be entitled to claim



1 on the producer's return a deduction from the gross  
2 amount taxable hereunder in the sum of the amount so  
3 disbursed. The amounts taxed under this paragraph  
4 shall not be taxable under any other paragraph,  
5 subsection, or section of this chapter.

6 (9) Tax on other business. Upon every person engaging or  
7 continuing within the State in any business, trade,  
8 activity, occupation, or calling not included in the  
9 preceding paragraphs or any other provisions of this  
10 chapter, there is likewise hereby levied and shall be  
11 assessed and collected, a tax equal to [~~four~~] \_\_\_\_\_  
12 per cent of the gross income thereof. In addition,  
13 the rate prescribed by this paragraph shall apply to a  
14 business taxable under one or more of the preceding  
15 paragraphs or other provisions of this chapter, as to  
16 any gross income thereof not taxed thereunder as gross  
17 income or gross proceeds of sales or by taxing an  
18 equivalent value of products, unless specifically  
19 exempted."

20 SECTION 7. Section 237-15, Hawaii Revised Statutes, is  
21 amended to read as follows:



1           **"§237-15 Technicians.** When technicians supply dentists or  
2 physicians with dentures, orthodontic devices, braces, and  
3 similar items which have been prepared by the technician in  
4 accordance with specifications furnished by the dentist or  
5 physician, and such items are to be used by the dentist or  
6 physician in the dentist's or physician's professional practice  
7 for a particular patient who is to pay the dentist or physician  
8 for the same as a part of the dentist's or physician's  
9 professional services, the technician shall be taxed as though  
10 the technician were a manufacturer selling a product to a  
11 licensed retailer, rather than at the rate of [~~four~~] \_\_\_\_\_ per  
12 cent which is generally applied to professions and services."

13           SECTION 8. Section 237-31, Hawaii Revised Statutes, is  
14 amended to read as follows:

15           **"§237-31 Remittances.** All remittances of taxes imposed by  
16 this chapter shall be made by money, bank draft, check,  
17 cashier's check, money order, or certificate of deposit to the  
18 office of the department of taxation to which the return was  
19 transmitted. The department shall issue its receipts therefor  
20 to the taxpayer and shall pay the moneys into the state treasury  
21 as a state realization, to be kept and accounted for as provided  
22 by law; provided that:





1           (1) The sum from all general excise tax revenues realized  
2                   by the State that represents the difference between  
3                   \$45,000,000 and the proceeds from the sale of any  
4                   general obligation bonds authorized for that fiscal  
5                   year for the purposes of the state educational  
6                   facilities improvement special fund shall be deposited  
7                   in the state treasury in each fiscal year to the  
8                   credit of the state educational facilities improvement  
9                   special fund;

10           (2) A sum, not to exceed \$5,000,000, from all general  
11                   excise tax revenues realized by the State shall be  
12                   deposited in the state treasury in each fiscal year to  
13                   the credit of the compound interest bond reserve fund;  
14                   [and]

15           (3) A sum, not to exceed the amount necessary to meet the  
16                   obligations of the integrated tax information  
17                   management systems performance-based contract may be  
18                   retained and deposited in the state treasury to the  
19                   credit of the integrated tax information management  
20                   systems special fund. The sum retained by the  
21                   director of taxation for deposit to the integrated tax  
22                   information management systems special fund for each



1 fiscal year shall be limited to amounts appropriated  
2 by the legislature. This paragraph shall be repealed  
3 on July 1, 2005[-]; and

4 (4) A sum, not to exceed \$ \_\_\_\_\_, shall be deposited  
5 in the education special fund under section 302A-B in  
6 each fiscal year in quarterly allotments."

7 SECTION 9. In codifying the new sections added by section  
8 4 of this Act, the revisor of statutes shall substitute  
9 appropriate section numbers for the letters used in designating  
10 the new sections in this Act.

11 SECTION 10. Statutory material to be repealed is bracketed  
12 and stricken. New statutory material is underscored.

13 SECTION 11. This Act, upon its approval shall apply to  
14 taxable years beginning after December 31, 2009.

15

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**Report Title:**

Education Funding; GET; Increase; Exemptions; EITC; Volunteers Tax Credit; Standard Deduction

**Description:**

Increases the general excise tax to fund public education; exempts groceries, certain medical expenses, and a portion of rent from the general excise tax; establishes a state earned income tax credit; establishes a tax credit for volunteer services performed in public schools; increases the standard deduction; establishes an education funding commission to provide oversight for general excise tax revenues deposited into the newly created education special fund.

