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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 purpose of this Act is to address the  
2 income tax. More specifically, this Act:

- 3           (1) Reduces the income tax rates for taxpayers in the  
4                 lower income brackets; and  
5           (2) Repeals various credits and deductions.

6           SECTION 2. Section 201H-15, Hawaii Revised Statutes, is  
7 amended to read as follows:

8           " [H] §201H-15 [H] Administration of low-income housing  
9 credit allowed under section 235-110.8. (a) The corporation is  
10 designated as a state housing credit agency to carry out section  
11 42(h) (with respect to limitation on aggregate credit allowable  
12 with respect to a project located in a state) of the Internal  
13 Revenue Code of 1986, as amended. As a state housing credit  
14 agency, the corporation shall determine the eligibility basis  
15 for a qualified low-income building, make the allocation of  
16 housing credit dollar amounts within the State, and determine  
17 the portion of the State's housing credit ceiling set aside for  
18 projects involving qualified nonprofit organizations. The



1 corporation shall file any certifications and annual reports  
2 required by section 42 (with respect to low-income housing  
3 credit) of the Internal Revenue Code of 1986, as amended.

4 (b) The state aggregate housing credit dollar amount shall  
5 be allocated annually as required by section 42 of the Internal  
6 Revenue Code of 1986, as amended, by the corporation in an  
7 amount equal to \$1.25 multiplied by the state population in the  
8 calendar year or such greater or lesser amount as provided by  
9 section 42(h) of the Internal Revenue Code of 1986, as amended.

10 (c) The corporation shall adopt rules under chapter 91  
11 necessary to comply with federal and state requirements for  
12 determining the amount of the tax credit allowed under section  
13 42 of the Internal Revenue Code of 1986, as amended~~[, and~~  
14 ~~section 235-110.8]~~. The corporation may establish and collect  
15 reasonable fees for administrative expenses incurred in  
16 providing the services required by this section, including fees  
17 for processing developer applications for the credit. All fees  
18 collected for administering these provisions, including  
19 developer application fees, shall be used to cover the  
20 administrative expenses of the corporation.

21 ~~[(d) All claims for allocation of the low-income housing~~  
22 ~~credit under section 235-110.8 shall be filed with the~~



1 ~~corporation. The corporation shall determine the amount of the~~  
2 ~~credit allocation, if necessary, and return the claim to the~~  
3 ~~taxpayer. The taxpayer shall file the credit allocation with~~  
4 ~~the taxpayer's tax return with the department of taxation.]"~~

5 SECTION 3. Section 209E-10, Hawaii Revised Statutes, is  
6 amended by amending subsection (a) to read as follows:

7 "(a) The department shall certify annually to the  
8 department of taxation the applicability of the tax credit  
9 provided in this chapter for a qualified business against any  
10 taxes due the State. A qualified business shall be entitled to  
11 the tax credit only if it operated as a "qualified business" in  
12 an enterprise zone before July 1, 2009. Except for the general  
13 excise tax, the credit shall be eighty per cent of the tax due  
14 for the first tax year, seventy per cent of the tax due for the  
15 second tax year, sixty per cent of the tax due for the third  
16 year, fifty per cent of the tax due the fourth year, forty per  
17 cent of the tax due the fifth year, thirty per cent of the tax  
18 due the sixth year, and twenty per cent of the tax due the  
19 seventh year. Any tax credit not usable shall not be applied to  
20 future tax years."

21 SECTION 4. Section 235-2.3, Hawaii Revised Statutes, is  
22 amended by amending subsection (b) to read as follows:



1           "(b) The following Internal Revenue Code subchapters,  
2 parts of subchapters, sections, subsections, and parts of  
3 subsections shall not be operative for the purposes of this  
4 chapter, unless otherwise provided:

- 5           (1) Subchapter A (sections 1 to 59A) (with respect to  
6 determination of tax liability), except section  
7 1(h)(2) (relating to net capital gain reduced by the  
8 amount taken into account as investment income) ~~[7]~~ and  
9 except sections 2(a), 2(b), and 2(c) (with respect to  
10 the definition of "surviving spouse" and "head of  
11 household") ~~[, except section 41 (with respect to the  
12 credit for increasing research activities), except  
13 section 42 (with respect to low-income housing  
14 credit), and except sections 47 and 48, as amended, as  
15 of December 31, 1984 (with respect to certain  
16 depreciable tangible personal property). For  
17 treatment, see sections 235-110.91, 235-110.7, and  
18 235-110.8];~~
- 19           (2) Section 78 (with respect to dividends received from  
20 certain foreign corporations by domestic corporations  
21 choosing foreign tax credit);



- 1 (3) Section 86 (with respect to social security and tier 1  
2 railroad retirement benefits);
- 3 (4) Section 103 (with respect to interest on state and  
4 local bonds). For treatment, see section 235-7(b);
- 5 (5) Section 114 (with respect to extraterritorial income).  
6 For treatment, any transaction as specified in the  
7 transitional rule for 2005 and 2006 as specified in  
8 the American Jobs Creation Act of 2004 section 101(d)  
9 and any transaction that has occurred pursuant to a  
10 binding contract as specified in the American Jobs  
11 Creation Act of 2004 section 101(f) are inoperative;
- 12 (6) Section 120 (with respect to amounts received under  
13 qualified group legal services plans) [~~For~~  
14 ~~treatment, see section 235-7(a)(9) to (11)];~~
- 15 (7) Section 122 (with respect to certain reduced uniformed  
16 services retirement pay). For treatment, see section  
17 235-7(a)(3);
- 18 (8) Section 135 (with respect to income from United States  
19 savings bonds used to pay higher education tuition and  
20 fees). For treatment, see section 235-7(a)(1);
- 21 (9) Subchapter B (sections 141 to 150) (with respect to  
22 tax exemption requirements for state and local bonds);



- 1 (10) Section 151 (with respect to allowance of deductions  
2 for personal exemptions). For treatment, see section  
3 235-54;
- 4 (11) Section 179B (with respect to expensing of capital  
5 costs incurred in complying with Environmental  
6 Protection Agency sulphur regulations);
- 7 (12) Section 181 (with respect to special rules for certain  
8 film and television productions);
- 9 (13) Section 196 (with respect to deduction for certain  
10 unused investment credits);
- 11 (14) Section 199 (with respect to the U.S. production  
12 activities deduction);
- 13 (15) Section 222 (with respect to qualified tuition and  
14 related expenses);
- 15 (16) Sections 241 to 247 (with respect to special  
16 deductions for corporations). For treatment, see  
17 section 235-7(c);
- 18 (17) Section 280C (with respect to certain expenses for  
19 which credits are allowable) [~~For treatment, see~~  
20 ~~section 235-110.91~~];
- 21 (18) Section 291 (with respect to special rules relating to  
22 corporate preference items);



- 1 (19) Section 367 (with respect to foreign corporations);
- 2 (20) Section 501(c)(12), (15), (16) (with respect to exempt
- 3 organizations);
- 4 (21) Section 515 (with respect to taxes of foreign
- 5 countries and possessions of the United States);
- 6 (22) Subchapter G (sections 531 to 565) (with respect to
- 7 corporations used to avoid income tax on
- 8 shareholders);
- 9 (23) Subchapter H (sections 581 to 597) (with respect to
- 10 banking institutions), except section 584 (with
- 11 respect to common trust funds). For treatment, see
- 12 chapter 241;
- 13 (24) Section 642(a) and (b) (with respect to special rules
- 14 for credits and deductions applicable to trusts). For
- 15 treatment, see sections 235-54(b) and 235-55;
- 16 (25) Section 646 (with respect to tax treatment of electing
- 17 Alaska Native settlement trusts);
- 18 (26) Section 668 (with respect to interest charge on
- 19 accumulation distributions from foreign trusts);
- 20 (27) Subchapter L (sections 801 to 848) (with respect to
- 21 insurance companies). For treatment, see sections
- 22 431:7-202 and 431:7-204;



- 1 (28) Section 853 (with respect to foreign tax credit  
2 allowed to shareholders). For treatment, see section  
3 235-55;
- 4 (29) Subchapter N (sections 861 to 999) (with respect to  
5 tax based on income from sources within or without the  
6 United States), except sections 985 to 989 (with  
7 respect to foreign currency transactions). For  
8 treatment, see sections 235-4, 235-5, and 235-7(b),  
9 and 235-55;
- 10 (30) Section 1042(g) (with respect to sales of stock in  
11 agricultural refiners and processors to eligible farm  
12 cooperatives);
- 13 (31) Section 1055 (with respect to redeemable ground  
14 rents);
- 15 (32) Section 1057 (with respect to election to treat  
16 transfer to foreign trust, etc., as taxable exchange);
- 17 (33) Sections 1291 to 1298 (with respect to treatment of  
18 passive foreign investment companies);
- 19 (34) Subchapter Q (sections 1311 to 1351) (with respect to  
20 readjustment of tax between years and special  
21 limitations);





- 1 (35) Subchapter R (sections 1352 to 1359) (with respect to
- 2 election to determine corporate tax on certain
- 3 international shipping activities using per ton rate);
- 4 (36) Subchapter U (sections 1391 to 1397F) (with respect to
- 5 designation and treatment of empowerment zones,
- 6 enterprise communities, and rural development
- 7 investment areas). For treatment, see chapter 209E;
- 8 (37) Subchapter W (sections 1400 to 1400C) (with respect to
- 9 District of Columbia enterprise zone);
- 10 (38) Section 14000 (with respect to education tax
- 11 benefits);
- 12 (39) Section 1400P (with respect to housing tax benefits);
- 13 (40) Section 1400R (with respect to employment relief); and
- 14 (41) Section 1400T (with respect to special rules for
- 15 mortgage revenue bonds)."

16 SECTION 5. Section 235-4.5, Hawaii Revised Statutes, is  
 17 amended to read as follows:

18 **"§235-4.5 Taxation of trusts, beneficiaries; credit.** (a)  
 19 There shall be excluded from gross income any intangible income,  
 20 such as dividends and interest, earned by a trust sited in this  
 21 State to the extent that, during the taxable year of the trust,  
 22 the beneficial interest in the trust shall be held by a



1 beneficiary or beneficiaries residing outside this State. This  
2 exclusion shall not apply to income received from real property  
3 held in a land trust formed under chapter 558.

4 (b) If a trust sited in this State owns one hundred per  
5 cent of the stock of a foreign corporation which does not engage  
6 in an active trade or business but acts solely as a holding  
7 company receiving intangible income, such as dividends and  
8 interest, the intangible income of the foreign corporation shall  
9 be excluded from gross income for Hawaii income tax purposes but  
10 only to the extent that the income of the trust beneficiaries is  
11 excluded from taxation under subsection (a). As used in this  
12 section, foreign corporation means a corporation not created or  
13 organized in the United States or under the laws of the United  
14 States, Hawaii, or any other state.

15 ~~[(c) Any resident beneficiary of a trust with a situs in~~  
16 ~~another state may claim a credit for income taxes paid by the~~  
17 ~~trust to the other state on any income received which is~~  
18 ~~attributable to assets other than intangibles.]"~~

19 SECTION 6. Section 235-7, Hawaii Revised Statutes, is  
20 amended by (a) to read as follows:



- 1           "§235-7 Other provisions as to gross income, adjusted  
2 gross income, and taxable income. (a) There shall be excluded  
3 from gross income, adjusted gross income, and taxable income:
- 4           (1) Income not subject to taxation by the State under the  
5           Constitution and laws of the United States;
- 6           (2) Rights, benefits, and other income exempted from  
7           taxation by section 88-91, having to do with the state  
8           retirement system, and the rights, benefits, and other  
9           income, comparable to the rights, benefits, and other  
10          income exempted by section 88-91, under any other  
11          public retirement system;
- 12          (3) Any compensation received in the form of a pension for  
13          past services;
- 14          (4) Compensation paid to a patient affected with Hansen's  
15          disease employed by the State or the United States in  
16          any hospital, settlement, or place for the treatment  
17          of Hansen's disease;
- 18          (5) Except as otherwise expressly provided, payments made  
19          by the United States or this State, under an act of  
20          Congress or a law of this State, which by express  
21          provision or administrative regulation or  
22          interpretation are exempt from both the normal and



1           surtaxes of the United States, even though not so  
2           exempted by the Internal Revenue Code itself;

3           (6) Any income expressly exempted or excluded from the  
4           measure of the tax imposed by this chapter by any  
5           other law of the State, it being the intent of this  
6           chapter not to repeal or supersede any express  
7           exemption or exclusion;

8           (7) Income received by each member of the reserve  
9           components of the Army, Navy, Air Force, Marine Corps,  
10          or Coast Guard of the United States of America, and  
11          the Hawaii national guard as compensation for  
12          performance of duty, equivalent to pay received for  
13          forty-eight drills (equivalent of twelve weekends) and  
14          fifteen days of annual duty, at an:

15          (A) E-1 pay grade after eight years of service;  
16                provided that this subparagraph shall apply to  
17                taxable years beginning after December 31, 2004;

18          (B) E-2 pay grade after eight years of service;  
19                provided that this subparagraph shall apply to  
20                taxable years beginning after December 31, 2005;



- 1 (C) E-3 pay grade after eight years of service;  
2 provided that this subparagraph shall apply to  
3 taxable years beginning after December 31, 2006;
- 4 (D) E-4 pay grade after eight years of service;  
5 provided that this subparagraph shall apply to  
6 taxable years beginning after December 31, 2007;  
7 and
- 8 (E) E-5 pay grade after eight years of service;  
9 provided that this subparagraph shall apply to  
10 taxable years beginning after December 31, 2008;
- 11 (8) Income derived from the operation of ships or aircraft  
12 if the income is exempt under the Internal Revenue  
13 Code pursuant to the provisions of an income tax  
14 treaty or agreement entered into by and between the  
15 United States and a foreign country; provided that the  
16 tax laws of the local governments of that country  
17 reciprocally exempt from the application of all of  
18 their net income taxes, the income derived from the  
19 operation of ships or aircraft that are documented or  
20 registered under the laws of the United States; and



- 1       ~~[(9) The value of legal services provided by a prepaid~~  
2       ~~legal service plan to a taxpayer, the taxpayer's~~  
3       ~~spouse, and the taxpayer's dependents;~~
- 4       ~~(10) Amounts paid, directly or indirectly, by a prepaid~~  
5       ~~legal service plan to a taxpayer as payment or~~  
6       ~~reimbursement for the provision of legal services to~~  
7       ~~the taxpayer, the taxpayer's spouse, and the~~  
8       ~~taxpayer's dependents;~~
- 9       ~~(11) Contributions by an employer to a prepaid legal~~  
10       ~~service plan for compensation (through insurance or~~  
11       ~~otherwise) to the employer's employees for the costs~~  
12       ~~of legal services incurred by the employer's~~  
13       ~~employees, their spouses, and their dependents;~~
- 14       ~~(12)]~~ (9) Amounts received in the form of a monthly  
15       surcharge by a utility acting on behalf of an affected  
16       utility under section 269-16.3 shall not be gross  
17       income, adjusted gross income, or taxable income for  
18       the acting utility under this chapter. Any amounts  
19       retained by the acting utility for collection or other  
20       costs shall not be included in this exemption[~~;~~ and  
21       ~~(13) One hundred per cent of the gain realized by a fee~~  
22       ~~simple owner from the sale of a leased fee interest in~~



1           ~~units within a condominium project, cooperative~~  
2           ~~project, or planned unit development to the~~  
3           ~~association of owners under chapter 514A or 514B, or~~  
4           ~~the residential cooperative corporation of the~~  
5           ~~leasehold units.~~

6           ~~For purposes of this paragraph:~~

7                   ~~"Fee simple owner" shall have the same meaning as~~  
8                   ~~provided under section 516-1; provided that it shall~~  
9                   ~~include legal and equitable owners;~~

10                   ~~"Legal and equitable owner", and "leased fee~~  
11                   ~~interest" shall have the same meanings as provided~~  
12                   ~~under section 516-1; and~~

13                   ~~"Condominium project" and "cooperative project"~~  
14                   ~~shall have the same meanings as provided under section~~  
15                   ~~514C-1].~~

16           (b) There shall be included in gross income, adjusted  
17 gross income, and taxable income: (1) unless excluded by this  
18 chapter relating to the uniformed services of the United States,  
19 cost-of-living allowances and other payments exempted by section  
20 912 of the Internal Revenue Code, but section 119 of the  
21 Internal Revenue Code nevertheless shall apply; (2) unless  
22 expressly exempted or excluded as provided by subsection (a)(6),



1 interest on the obligations of a State or a political  
2 subdivision thereof.

3 (c) The deductions of or based on dividends paid or  
4 received, allowed to a corporation under chapter 1, subchapter  
5 B, Part VIII of the Internal Revenue Code, shall not be allowed.  
6 In lieu thereof there shall be allowed as a deduction the entire  
7 amount of dividends received by any corporation upon the shares  
8 of stock of a national banking association, qualifying  
9 dividends, as defined in section 243(b) of the Internal Revenue  
10 Code, received by members of an affiliated group, or dividends  
11 received by a small business investment company operating under  
12 the Small Business Investment Act of 1958 (Public Law 85-699)  
13 upon shares of stock qualifying under paragraph (3), seventy per  
14 cent of the amount received by any corporation as dividends:

15 (1) Upon the shares of stock of another corporation, if at  
16 the date of payment of the dividend at least ninety-  
17 five per cent of the other corporation's capital stock  
18 is owned by one or more corporations doing business in  
19 this State and if the other corporation is subjected  
20 to an income tax in another jurisdiction (but  
21 subsection to federal tax does not constitute  
22 subsection to income tax in another jurisdiction);





1           (2) Upon the shares of stock of a bank or insurance  
2           company organized and doing business under the laws of  
3           the State;

4           (3) Upon the shares of stock of another corporation, if at  
5           least fifteen per cent of the latter corporation's  
6           business, for the taxable year of the latter  
7           corporation preceding the payment of the dividend, has  
8           been attributed to this State.

9   However, except for national bank dividends, the deductions  
10 under this subsection are not allowed when they would not have  
11 been allowed under section 243 of the Internal Revenue Code, as  
12 amended by Public Law 85-866, by reason of subsections (b) and  
13 (c) of section 246 of the Internal Revenue Code. For the  
14 purposes of this subsection fifteen per cent of a corporation's  
15 business shall be deemed to have been attributed to this State  
16 if fifteen per cent or more of the entire gross income of the  
17 corporation as defined in this chapter (which for the purposes  
18 of this subsection shall be computed without regard to source in  
19 the State and shall include income not taxable by reason of the  
20 fact that it is from property not owned in the State or from a  
21 trade or business not carried on in the State in whole or in  
22 part), under section 235-5 and the other provisions of this



1 chapter, shall have been attributed to the State and subjected  
2 to assessment of the taxable income therefrom (including the  
3 determination of the resulting net loss, if any).

4 (d) (1) For taxable years ending before January 1, 1967,  
5 the net operating loss deductions allowed as  
6 carrybacks and carryovers by the Internal Revenue Code  
7 shall not be allowed. In lieu thereof the net  
8 operating loss deduction shall consist of the excess  
9 of the deductions allowed by this chapter over the  
10 gross income, computed with the modifications  
11 specified in paragraphs (1) to (4) of section 172(d)  
12 of the Internal Revenue Code, and with the further  
13 modification stated in paragraph (3) hereof; and shall  
14 be allowed as a deduction in computing the taxable  
15 income of the taxpayer for the succeeding taxable  
16 year;

17 (2) (A) With respect to net operating loss deductions  
18 resulting from net operating losses for taxable  
19 years ending after December 31, 1966, the net  
20 operating loss deduction provisions of the  
21 Internal Revenue Code shall apply; provided that  
22 there shall be no net operating loss deduction



1 carried back to any taxable year ending prior to  
2 January 1, 1967;

3 (B) In the case of a taxable year beginning in 1966  
4 and ending in 1967, the entire amount of all net  
5 operating loss deductions carried back to the  
6 taxable year shall be limited to that portion of  
7 taxable income for such taxable year which the  
8 number of days in 1967 bears to the total days in  
9 the taxable year ending in 1967; and

10 (C) The computation of any net operating loss  
11 deduction for a taxable year covered by this  
12 subsection shall require the further  
13 modifications stated in paragraphs (3), (4), and  
14 (5) of this subsection;

15 (3) In computing the net operating loss deduction allowed  
16 by this subsection, there shall be included in gross  
17 income the amount of interest which is excluded from  
18 gross income by subsection (a), decreased by the  
19 amount of interest paid or accrued which is disallowed  
20 as a deduction by subsection (e). In determining the  
21 amount of the net operating loss deduction under this  
22 subsection of any corporation, there shall be



1           disregarded the net operating loss of such corporation  
2           for any taxable year for which the corporation is an  
3           electing small business corporation;

4           (4) No net operating loss carryback or carryover shall be  
5           allowed by this chapter if not allowed under section  
6           172 of the Internal Revenue Code;

7           (5) The election to relinquish the entire carryback period  
8           with respect to a net operating loss allowed under  
9           section 172(b)(3)(C) of the Internal Revenue Code  
10          shall be operative for the purposes of this chapter;  
11          provided that no taxpayer shall make such an election  
12          as to a net operating loss of a business where such  
13          net operating loss occurred in the taxpayer's business  
14          prior to the taxpayer entering business in this State;  
15          and

16          (6) The five-year carryback period for net operating  
17          losses for any taxable year ending during 2001 and  
18          2002 in section 172(b)(1)(H) of the Internal Revenue  
19          Code shall not be operative for purposes of this  
20          chapter.

21          (e) There shall be disallowed as a deduction the amount of  
22          interest paid or accrued within the taxable year on indebtedness



1 incurred or continued, (1) to purchase or carry bonds the  
2 interest upon which is excluded from gross income by subsection  
3 (a); or (2) to purchase or carry property owned without the  
4 State, or to carry on trade or business without the State, if  
5 the taxpayer is a person taxable only upon income from sources  
6 in the State.

7 (f) Losses of property as the result of tidal wave,  
8 hurricane, earthquake, or volcanic eruption, or as a result of  
9 flood waters overflowing the banks or walls of a river or  
10 stream, or from any other natural disaster, to the extent of the  
11 amount deductible, under this chapter, not compensated for by  
12 insurance or otherwise, may be deducted in the taxable year in  
13 which sustained, or at the option of the taxpayer may be  
14 deducted in equal installments over a period of five years, the  
15 first such year to be the calendar year or fiscal year of the  
16 taxpayer in which such loss occurred.

17 ~~[(g) In computing taxable income there shall be allowed as~~  
18 ~~a deduction:~~

19 ~~(1) Political contributions by any taxpayer not in excess~~  
20 ~~of \$250 in any year; provided that such contributions~~  
21 ~~are made to a central or county committee of a~~  
22 ~~political party whose candidates shall have qualified~~



1           ~~by law to be voted for at the immediately previous~~  
2           ~~general election; or~~  
3           ~~(2) Political contributions by any individual taxpayer in~~  
4           ~~an aggregate amount not to exceed \$1,000 in any year;~~  
5           ~~provided that such contributions are made to~~  
6           ~~candidates as defined in section 11-191, who have~~  
7           ~~agreed to abide by the campaign expenditure limits as~~  
8           ~~set forth in section 11-209; and provided further that~~  
9           ~~not more than \$250 of an individual's total~~  
10           ~~contribution to any single candidate shall be~~  
11           ~~deductible for purposes of this section.]"~~

12           SECTION 7. Section 235-9, Hawaii Revised Statutes, is  
13 amended to read as follows:

14           "**§235-9 Exemptions; generally.** Except as provided in  
15 sections 235-61 to 235-67 relating to withholding and collection  
16 of tax at source, and section 235-2.4 relating to "unrelated  
17 business taxable income", the following persons and  
18 organizations shall not be taxable under this chapter: banks,  
19 building and loan associations, financial services loan  
20 companies, financial corporations, small business investment  
21 companies, trust companies, mortgage loan companies, financial  
22 holding companies, subsidiaries of financial holding companies



1 as defined in chapter 241, and development companies taxable  
 2 under chapter 241; and insurance companies, agricultural  
 3 cooperative associations, and fish marketing associations  
 4 exclusively taxable under other laws[~~; and persons engaged in~~  
 5 ~~the business of motion picture and television film production as~~  
 6 ~~defined by the director of taxation]."~~

7 SECTION 8. Section 235-51, Hawaii Revised Statutes, is  
 8 amended by amending subsections (a), (b), and (c) to read as  
 9 follows:

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

14 In the case of any taxable year beginning after  
 15 December 31, 2001:

	If the taxable income is:	The tax shall be:
17	Not over \$4,000	1.40% of taxable income
18	Over \$4,000 but	\$56.00 plus 3.20% of
19	not over \$8,000	excess over \$4,000
20	Over \$8,000 but	\$184.00 plus 5.50% of
21	not over \$16,000	excess over \$8,000
22	Over \$16,000 but	\$624.00 plus 6.40% of



1	not over \$24,000	excess over \$16,000
2	Over \$24,000 but	\$1,136.00 plus 6.80% of
3	not over \$32,000	excess over \$24,000
4	Over \$32,000 but	\$1,680.00 plus 7.20% of
5	not over \$40,000	excess over \$32,000
6	Over \$40,000 but	\$2,256.00 plus 7.60% of
7	not over \$60,000	excess over \$40,000
8	Over \$60,000 but	\$3,776.00 plus 7.90% of
9	not over \$80,000	excess over \$60,000
10	Over \$80,000	\$5,356.00 plus 8.25% of
11		excess over \$80,000.

12 In the case of any taxable year beginning after  
 13 December 31, 2006:

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





1	not over \$38,400	excess over \$28,800
2	Over \$38,400 but	\$2,016.00 plus 7.20% of
3	not over \$48,000	excess over \$38,400
4	Over \$48,000 but	\$2,707.00 plus 7.60% of
5	not over \$72,000	excess over \$48,000
6	Over \$72,000 but	\$4,531.00 plus 7.90% of
7	not over \$96,000	excess over \$72,000
8	Over \$96,000	\$6,427.00 plus 8.25% of
9		excess over \$96,000.

10 In the case of any taxable year beginning after  
 11 December 31, 2009:

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



1	<u>not over \$48,000</u>	<u>excess over \$38,400</u>
2	<u>Over \$48,000 but</u>	\$ _____ plus _____ % of
3	<u>not over \$72,000</u>	<u>excess over \$48,000</u>
4	<u>Over \$72,000 but</u>	\$ _____ plus _____ % of
5	<u>not over \$96,000</u>	<u>excess over \$72,000</u>
6	<u>Over \$96,000</u>	<u>\$6,427.00 plus 8.25% of</u>
7		<u>excess over \$96,000.</u>

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

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

13	If the taxable income is:	The tax shall be:
14	Not over \$3,000	1.40% of taxable income
15	Over \$3,000 but	\$42.00 plus 3.20% of
16	not over \$6,000	excess over \$3,000
17	Over \$6,000 but	\$138.00 plus 5.50% of
18	not over \$12,000	excess over \$6,000
19	Over \$12,000 but	\$468.00 plus 6.40% of
20	not over \$18,000	excess over \$12,000
21	Over \$18,000	\$852.00 plus 6.80% of
22	but not over \$24,000	excess over \$18,000



1	Over \$24,000 but	\$1,260.00 plus 7.20% of
2	not over \$30,000	excess over \$24,000
3	Over \$30,000 but	\$1,692.00 plus 7.60% of
4	not over \$45,000	excess over \$30,000
5	Over \$45,000 but	\$2,832.00 plus 7.90% of
6	not over \$60,000	excess over \$45,000
7	Over \$60,000	\$4,017.00 plus 8.25% of
8		excess over \$60,000.

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 \$3,600	1.40% of taxable income
13	Over \$3,600 but	\$50.00 plus 3.20% of
14	not over \$7,200	excess over \$3,600
15	Over \$7,200 but	\$166.00 plus 5.50% of
16	not over \$14,400	excess over \$7,200
17	Over \$14,400 but	\$562.00 plus 6.40% of
18	not over \$21,600	excess over \$14,400
19	Over \$21,600 but	\$1,022.00 plus 6.80% of
20	not over \$28,800	excess over \$21,600
21	Over \$28,800 but	\$1,512.00 plus 7.20% of
22	not over \$36,000	excess over \$28,800



1 Over \$36,000 but \$2,030.00 plus 7.60% of  
 2 not over \$54,000 excess over \$36,000  
 3 Over \$54,000 but \$3,398.00 plus 7.90% of  
 4 not over \$72,000 excess over \$54,000  
 5 Over \$72,000 \$4,820.00 plus 8.25% of  
 6 excess over \$72,000.

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 \$3,600</u>	<u>          % of taxable income</u>
11	<u>Over \$3,600 but</u>	<u>\$          plus          % of</u>
12	<u>not over \$7,200</u>	<u>excess over \$3,600</u>
13	<u>Over \$7,200 but</u>	<u>\$          plus          % of</u>
14	<u>not over \$14,400</u>	<u>excess over \$7,200</u>
15	<u>Over \$14,400 but</u>	<u>\$          plus          % of</u>
16	<u>not over \$21,600</u>	<u>excess over \$14,400</u>
17	<u>Over \$21,600 but</u>	<u>\$          plus          % of</u>
18	<u>not over \$28,800</u>	<u>excess over \$21,600</u>
19	<u>Over \$28,800 but</u>	<u>\$          plus          % of</u>
20	<u>not over \$36,000</u>	<u>excess over \$28,800</u>
21	<u>Over \$36,000 but</u>	<u>\$          plus          % of</u>
22	<u>not over \$54,000</u>	<u>excess over \$36,000</u>



1	<u>Over \$54,000 but</u>	\$	plus	% of
2	<u>not over \$72,000</u>			<u>excess over \$54,000</u>
3	<u>Over \$72,000 but</u>	\$	plus	% of
4	<u>not over \$96,000</u>			<u>excess over \$72,000</u>
5	<u>Over \$96,000</u>	\$	plus	% of
6				<u>excess over \$96,000.</u>

7 (c) There is hereby imposed on the taxable income of (1)  
 8 every unmarried individual (other than a surviving spouse, or  
 9 the head of a household) and (2) on the taxable income of every  
 10 married individual who does not make a single return jointly  
 11 with the individual's spouse under section 235-93 a tax  
 12 determined in accordance with the following table:

13 In the case of any taxable year beginning after  
 14 December 31, 2001:

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



1	Over \$12,000 but	\$568.00 plus 6.80% of
2	not over \$16,000	excess over \$12,000
3	Over \$16,000 but	\$840.00 plus 7.20% of
4	not over \$20,000	excess over \$16,000
5	Over \$20,000 but	\$1,128.00 plus 7.60% of
6	not over \$30,000	excess over \$20,000
7	Over \$30,000 but	\$1,888.00 plus 7.90% of
8	not over \$40,000	excess over \$30,000
9	Over \$40,000	\$2,678.00 plus 8.25% of
10		excess over \$40,000.

11 In the case of any taxable year beginning after  
 12 December 31, 2006:

13	If the taxable income is:	The tax shall be:
14	Not over \$2,400	1.40% of taxable income
15	Over \$2,400 but	\$34.00 plus 3.20% of
16	not over \$4,800	excess over \$2,400
17	Over \$4,800 but	\$110.00 plus 5.50% of
18	not over \$9,600	excess over \$4,800
19	Over \$9,600 but	\$374.00 plus 6.40% of
20	not over \$14,400	excess over \$9,600
21	Over \$14,400 but	\$682.00 plus 6.80% of
22	not over \$19,200	excess over \$14,400



1	Over \$19,200 but	\$1,008.00 plus 7.20% of
2	not over \$24,000	excess over \$19,200
3	Over \$24,000 but	\$1,354.00 plus 7.60% of
4	not over \$36,000	excess over \$24,000
5	Over \$36,000 but	\$2,266.00 plus 7.90% of
6	not over \$48,000	excess over \$36,000
7	Over \$48,000	\$3,214.00 plus 8.25% of
8		excess over \$48,000.

9 In the case of any taxable year beginning after

10 December 31, 2009:

11	<u>If the taxable income is:</u>	<u>The tax shall be:</u>
12	<u>Not over \$2,400</u>	<u>_____ % of taxable income</u>
13	<u>Over \$2,400 but</u>	<u>\$34.00 plus _____ % of</u>
14	<u>not over \$4,800</u>	<u>excess over \$2,400</u>
15	<u>Over \$4,800 but</u>	<u>\$ _____ plus _____ % of</u>
16	<u>not over \$9,600</u>	<u>excess over \$4,800</u>
17	<u>Over \$9,600 but</u>	<u>\$ _____ plus _____ % of</u>
18	<u>not over \$14,400</u>	<u>excess over \$9,600</u>
19	<u>Over \$14,400 but</u>	<u>\$ _____ plus _____ % of</u>
20	<u>not over \$19,200</u>	<u>excess over \$14,400</u>
21	<u>Over \$19,200 but</u>	<u>\$ _____ plus _____ % of</u>
22	<u>not over \$24,000</u>	<u>excess over \$19,200</u>



- 1            Over \$24,000 but                                 \$ \_\_\_\_\_ plus \_\_\_\_\_ % of
- 2                      not over \$36,000    excess over \$24,000
- 3            Over \$36,000 but                                 \$ \_\_\_\_\_ plus \_\_\_\_\_ % of
- 4                      not over \$54,000    excess over \$36,000
- 5            Over \$54,000 but                                 \$ \_\_\_\_\_ plus \_\_\_\_\_ % of
- 6                      not over \$72,000    excess over \$54,000
- 7            Over \$72,000 but                                 \$ \_\_\_\_\_ plus \_\_\_\_\_ % of
- 8                      not over \$96,000    excess over \$72,000-
- 9            Over \$96,000    \$ \_\_\_\_\_ plus \_\_\_\_\_ % of
- 10    excess over \$96,000."

11            SECTION 9. Act 166, Session Laws of Hawaii 2007, section  
 12    3, is amended to read as follows:

13            "SECTION 3. This Act shall take effect upon approval, and  
 14    shall apply to taxable years beginning after December 31, 2007,  
 15    and ending prior to January 1, [~~2013; provided that on January~~  
 16    ~~1, 2013, this Act shall be repealed and section 235-7(a), Hawaii~~  
 17    ~~Revised Statutes, shall be reenacted in the form in which it~~  
 18    ~~read on the day prior to the effective date of this Act.] 2010."~~

19            SECTION 10. Section 235-5.5, Hawaii Revised Statutes, is  
 20    repealed.

21            [~~"§235-5.5 Individual housing accounts. (a) There shall~~  
 22    ~~be allowed as a deduction from gross income the amount, not to~~





1 ~~exceed \$5,000, paid in cash during the taxable year by an~~  
2 ~~individual taxpayer to an individual housing account established~~  
3 ~~for the individual's benefit to provide funding for the purchase~~  
4 ~~of the individual's first principal residence. A deduction not~~  
5 ~~to exceed \$10,000 shall be allowed for a married couple filing a~~  
6 ~~joint return. No deduction shall be allowed on any amounts~~  
7 ~~distributed less than three hundred sixty-five days from the~~  
8 ~~date on which a contribution is made to the account. Any~~  
9 ~~deduction claimed for a previous taxable year for amounts~~  
10 ~~distributed less than three hundred sixty-five days from the~~  
11 ~~date on which a contribution was made shall be disallowed and~~  
12 ~~the amount deducted shall be included in the previous taxable~~  
13 ~~year's gross income and the tax reassessed. The interest paid~~  
14 ~~or accrued within the taxable year on the account shall not be~~  
15 ~~included in the individual's gross income. For purposes of this~~  
16 ~~section, the term "first principal residence" means a~~  
17 ~~residential property purchased with the payment or distribution~~  
18 ~~from the individual housing account which shall be owned and~~  
19 ~~occupied as the only home by an individual who did not have any~~  
20 ~~interest in, individually, or whose spouse did not have any~~  
21 ~~interest in, if the individual is married, a residential~~



1 ~~property within the last five years of opening the individual~~  
2 ~~housing account.~~

3 ~~In the case of a married couple filing separate returns,~~  
4 ~~the sum of the deductions allowable to each of them for the~~  
5 ~~taxable year shall not exceed \$5,000, or \$10,000 for a joint~~  
6 ~~return, for amounts paid in cash, excluding interest paid or~~  
7 ~~accrued thereon.~~

8 ~~The amounts paid in cash allowable as a deduction under~~  
9 ~~this section to an individual for all taxable years shall not~~  
10 ~~exceed \$25,000, excluding interest paid or accrued. In the case~~  
11 ~~of married individuals having separate individual housing~~  
12 ~~accounts, the sum of the separate accounts and the deduction~~  
13 ~~under this section shall not exceed \$25,000, excluding interest~~  
14 ~~paid or accrued thereon.~~

15 ~~(b) For purposes of this section, the term "individual~~  
16 ~~housing account" means a trust created or organized in Hawaii~~  
17 ~~for the exclusive benefit of an individual, or, in the case of a~~  
18 ~~married individual, for the exclusive benefit of the individual~~  
19 ~~and spouse jointly, but only if the written governing instrument~~  
20 ~~creating the trust meets the following requirements:~~

21 ~~(1) Contributions shall not be accepted for the taxable~~  
22 ~~year in excess of \$5,000 (or \$10,000 in the case of a~~



1           ~~joint return) or in excess of \$25,000 for all taxable~~  
2           ~~years, exclusive of interest paid or accrued;~~

3           ~~(2) The trustee is a bank, a savings and loan association,~~  
4           ~~a credit union, or a depository financial services~~  
5           ~~loan company, chartered, licensed, or supervised under~~  
6           ~~federal or state law, whose accounts are insured by~~  
7           ~~the Federal Deposit Insurance Corporation, the~~  
8           ~~National Credit Union Administration, or any agency of~~  
9           ~~this State or any federal agency established for the~~  
10           ~~purpose of insuring accounts in these financial~~  
11           ~~institutions. The financial institution must actively~~  
12           ~~make residential real estate mortgage loans in Hawaii;~~

13           ~~(3) The assets of the trust shall be invested only in~~  
14           ~~fully insured savings or time deposits. Funds held in~~  
15           ~~the trust may be commingled for purposes of~~  
16           ~~investment, but individual records shall be maintained~~  
17           ~~by the trustee for each individual housing account~~  
18           ~~holder which show all transactions in detail;~~

19           ~~(4) The entire interest of an individual or married couple~~  
20           ~~for whose benefit the trust is maintained shall be~~  
21           ~~distributed to the individual or couple not later than~~



1           ~~one hundred twenty months after the date on which the~~  
2           ~~first contribution is made to the trust;~~

3       ~~(5) Except as provided in subsection (g), the trustee~~  
4           ~~shall not distribute the funds in the account unless~~  
5           ~~it (A) verifies that the money is to be used for the~~  
6           ~~purchase of a first principal residence located in~~  
7           ~~Hawaii, and provides that the instrument of payment is~~  
8           ~~payable to the mortgagor, construction contractor, or~~  
9           ~~other vendor of the property purchased; or (B)~~  
10           ~~withholds an amount equal to ten per cent of the~~  
11           ~~amount withdrawn from the account and remits this~~  
12           ~~amount to the director within ten days after the date~~  
13           ~~of the withdrawal. The amount so withheld shall be~~  
14           ~~applied to the liability of the taxpayer under~~  
15           ~~subsections (c) and (e); and~~

16       ~~(6) If any amounts are distributed before the expiration~~  
17           ~~of three hundred sixty five days from the date on~~  
18           ~~which a contribution is made to the account, the~~  
19           ~~trustee shall so notify in writing the taxpayer and~~  
20           ~~the director. If the trustee makes the verification~~  
21           ~~required in paragraph (5) (A), then the department~~  
22           ~~shall disallow the deduction under subsection (a) and~~



1            subsections ~~(c), (e), and (f)~~ shall not apply to that  
2            amount. If the trustee withholds an amount under  
3            paragraph ~~(5)(B)~~, then the department shall disallow  
4            the deduction under subsection ~~(a)~~ and subsection ~~(e)~~  
5            shall apply, but subsection ~~(c)~~ shall not apply.

6            ~~(c)~~ Any contributions paid or distributed out of an  
7            individual housing account shall be included in gross income by  
8            the individual for whose benefit the account was established for  
9            the taxable year in which the payment or distribution is  
10           received, unless the amount is used exclusively in connection  
11           with the purchase of the first principal residence in Hawaii for  
12           the individual for whose benefit the account was established.

13           ~~(d)~~ The transfer of an individual's interest in an  
14           individual housing account to a spouse under a dissolution of  
15           marriage decree or under a written instrument incident to a  
16           dissolution of marriage shall not be considered a taxable  
17           transfer made by the individual, and the interest, at the time  
18           of the transfer, shall be treated as part of an individual  
19           housing account of the transferee, and not of the transferor.  
20           After the transfer, the account shall be treated, for purposes  
21           of this section, as maintained for the benefit of the  
22           transferee.



1       ~~(e) If a distribution from an individual housing account~~  
2 ~~to an individual for whose benefit the account was established~~  
3 ~~is made and not used in connection with the purchase of the~~  
4 ~~first principal residence in Hawaii for the individual, the tax~~  
5 ~~liability of the individual under this chapter for the taxable~~  
6 ~~year in which the distribution is received shall be increased by~~  
7 ~~an amount equal to ten per cent of the amount of the~~  
8 ~~distribution which is includable in the individual's gross~~  
9 ~~income for the taxable year.~~

10       ~~If, during any taxable year, the individual uses the~~  
11 ~~account or any portion thereof as security for a loan, the~~  
12 ~~portion so used shall be treated as if it had been distributed~~  
13 ~~to that individual.~~

14       ~~(f) If the individual for whose benefit the individual~~  
15 ~~housing account was established purchases a residential property~~  
16 ~~in Hawaii with the distribution from the individual housing~~  
17 ~~account:~~

18       ~~(1) Before January 1, 1990, and if the individual sells in~~  
19       ~~any manner or method or by use of any instrument~~  
20       ~~conveying or transferring the residential property,~~  
21       ~~the gross income of the individual under this chapter~~  
22       ~~for the taxable year in which the residential property~~



1 ~~is sold, conveyed, or transferred, whichever is~~  
2 ~~applicable, shall include an amount equal to the~~  
3 ~~amount of the distribution from the individual housing~~  
4 ~~account, and in addition, the gross income of the~~  
5 ~~individual shall be increased by an amount equal to~~  
6 ~~ten per cent of the total distribution from the~~  
7 ~~individual housing account; or~~

8 ~~(2) After December 31, 1989, the individual shall report~~  
9 ~~one-tenth of the total distribution from the~~  
10 ~~individual housing account used to purchase the~~  
11 ~~residential property as gross income in the taxable~~  
12 ~~year in which the distribution is completed and in~~  
13 ~~each taxable year thereafter until all of the~~  
14 ~~distribution has been included in the individual's~~  
15 ~~gross income at the end of the tenth taxable year~~  
16 ~~after the purchase of the residential property. If~~  
17 ~~the individual sells in any manner or method or by use~~  
18 ~~of any instrument conveying or transferring the~~  
19 ~~residential property, the gross income of the~~  
20 ~~individual under this chapter for the taxable year in~~  
21 ~~which the residential property is sold, conveyed, or~~  
22 ~~transferred, whichever is applicable, shall include an~~



1           ~~amount equal to the amount of the distribution from~~  
2           ~~the individual housing account not previously reported~~  
3           ~~as gross income, and in addition, the tax liability of~~  
4           ~~the individual shall be increased by an amount equal~~  
5           ~~to ten per cent of the total distribution from the~~  
6           ~~individual housing account. If the individual sells~~  
7           ~~the residential property in any manner as provided in~~  
8           ~~this paragraph after all of the distribution has been~~  
9           ~~included in the individual's gross income at the end~~  
10           ~~of the tenth taxable year after the purchase of the~~  
11           ~~residential property, the tax liability of the~~  
12           ~~individual shall not be increased by an amount equal~~  
13           ~~to ten per cent of the total distribution from the~~  
14           ~~individual housing account.~~

15   ~~An individual who purchased a residential property in Hawaii~~  
16   ~~with the distribution from an individual housing account before~~  
17   ~~January 1, 1990, who is subject to paragraph (1) may elect to~~  
18   ~~report as provided in paragraph (2). The election shall be made~~  
19   ~~before January 1, 1991. If the individual makes the election,~~  
20   ~~the individual shall report one-tenth of the total distribution~~  
21   ~~from the individual housing account as gross income in the~~  
22   ~~taxable year in which the election occurs and in each taxable~~





1 ~~year thereafter until all of the distribution has been included~~  
2 ~~in gross income as provided by paragraph (2). If the individual~~  
3 ~~making the election sells the residential property in any manner~~  
4 ~~as provided in paragraph (2), then the individual shall include~~  
5 ~~as income the amount of the distribution not previously reported~~  
6 ~~as income and increase the individual's tax liability as~~  
7 ~~provided in the second sentence of paragraph (2), except when~~  
8 ~~the third sentence of paragraph (2) applies.~~

9 ~~In the alternative, any individual subject to paragraph (2)~~  
10 ~~who established the individual housing account before January 1,~~  
11 ~~1990, may elect within one year after the date of purchase, to~~  
12 ~~be subject to paragraph (1).~~

13 ~~(g) No tax liability shall be imposed under this section~~  
14 ~~if:~~

15 ~~(1) The payment or distribution is attributable to the~~  
16 ~~individual dying or becoming totally disabled; or~~

17 ~~(2) Residential property subject to subsection (f) is~~  
18 ~~transferred by will or by operation of law or sold due~~  
19 ~~to the death or total disability of an individual or~~  
20 ~~individual's spouse,~~

21 ~~subject to the following:~~



1       ~~An individual shall not be considered to be totally~~  
2       ~~disabled unless proof is furnished of the total disability in~~  
3       ~~the form and manner as the director may require.~~

4       ~~Upon the death of an individual for whose benefit an~~  
5       ~~individual housing account has been established, the funds in~~  
6       ~~the account shall be payable to the estate of the individual;~~  
7       ~~provided that if the account was held jointly by the decedent~~  
8       ~~and a spouse of the decedent, the account shall terminate and be~~  
9       ~~paid to the surviving spouse; or, if the surviving spouse so~~  
10       ~~elects, the spouse may continue the account as an individual~~  
11       ~~housing account. Upon the total disability of an individual for~~  
12       ~~whose benefit an individual housing account has been~~  
13       ~~established, the individual or the individual's authorized~~  
14       ~~representative may elect to continue the account or terminate~~  
15       ~~the account and be paid the assets; provided that if the account~~  
16       ~~was held jointly by a totally disabled person and a spouse of~~  
17       ~~that person, then the spouse or an authorized representative may~~  
18       ~~elect to continue the account or terminate the account and be~~  
19       ~~paid the assets.~~

20       ~~(h) If the individual for whose benefit the individual~~  
21       ~~housing account was established subsequently marries a person~~  
22       ~~who has or has had any interest in residential property, the~~



1 ~~individual's housing account shall be terminated, the funds~~  
2 ~~therein shall be distributed to the individual, and the amount~~  
3 ~~of the funds shall be includable in the individual's gross~~  
4 ~~income for the taxable year in which such marriage took place;~~  
5 ~~provided that the tax liability defined under subsection (f)~~  
6 ~~shall not be imposed.~~

7 ~~(i) The trustee of an individual housing account shall~~  
8 ~~make reports regarding the account to the director and to the~~  
9 ~~individual for whom the account is maintained with respect to~~  
10 ~~contributions, distributions, and other matters as the director~~  
11 ~~may require under rules. The reports shall be filed at a time~~  
12 ~~and in a manner as may be required by rules adopted under~~  
13 ~~chapter 91. A person who fails to file a required report shall~~  
14 ~~be subject to a penalty of \$10 to be paid to the director for~~  
15 ~~each instance of failure to file." ]~~

16 SECTION 11. Section 235-7.3, Hawaii Revised Statutes, is  
17 repealed.

18 [~~"§235-7.3 Royalties derived from patents, copyrights, or~~  
19 ~~trade secrets excluded from gross income. (a) In addition to~~  
20 ~~the exclusions in section 235-7, there shall be excluded from~~  
21 ~~gross income, adjusted gross income, and taxable income, amounts~~  
22 ~~received by an individual or a qualified high technology~~



1 ~~business as royalties and other income derived from any patents,~~  
2 ~~copyrights, and trade secrets:~~

3 ~~(1) Owned by the individual or qualified high technology~~  
4 ~~business; and~~

5 ~~(2) Developed and arising out of a qualified high~~  
6 ~~technology business.~~

7 ~~(b) With respect to performing arts products, this~~  
8 ~~exclusion shall extend to:~~

9 ~~(1) The authors of performing arts products, or any parts~~  
10 ~~thereof, without regard to the application of the~~  
11 ~~work-for-hire doctrine under United States copyright~~  
12 ~~law;~~

13 ~~(2) The authors of performing arts products, or any parts~~  
14 ~~thereof, under the work-for-hire doctrine under United~~  
15 ~~States copyright law; and~~

16 ~~(3) The assignors, licensors, and licensees of any~~  
17 ~~copyright rights in performing arts products, or any~~  
18 ~~parts thereof.~~

19 ~~(c) For the purposes of this section:~~

20 ~~"Performing arts products" means:~~



1       ~~(1) Audio files, video files, audiovideo files, computer~~  
2           ~~animation, and other entertainment products perceived~~  
3           ~~by or through the operation of a computer; and~~

4       ~~(2) Commercial television and film products for sale or~~  
5           ~~license, and reuse or residual fee payments from these~~  
6           ~~products.~~

7       ~~"Qualified high technology business" means a business that~~  
8       ~~conducts more than fifty per cent of its activities in qualified~~  
9       ~~research.~~

10       ~~"Qualified research" means:~~

11       ~~(1) The same as in section 41(d) of the Internal Revenue~~  
12           ~~Code;~~

13       ~~(2) The development and design of computer software for~~  
14           ~~ultimate commercial sale, lease, license or to be~~  
15           ~~otherwise marketed, for economic consideration. With~~  
16           ~~respect to the software's development and design, the~~  
17           ~~business shall have substantial control and retain~~  
18           ~~substantial rights to the resulting intellectual~~  
19           ~~property;~~

20       ~~(3) Biotechnology;~~

21       ~~(4) Performing arts products;~~

22       ~~(5) Sensor and optic technologies;~~



- 1        ~~(6) Ocean sciences;~~
- 2        ~~(7) Astronomy; or~~
- 3        ~~(8) Nonfossil fuel energy-related technology." ]~~

4        SECTION 12. Section 235-9.5, Hawaii Revised Statutes, is  
5 repealed.

6        [~~§235-9.5 Stock options from qualified high technology~~  
7 ~~businesses excluded from taxation.~~ (a) ~~Notwithstanding any law~~  
8 ~~to the contrary, all income earned and proceeds derived from~~  
9 ~~stock options or stock, including stock issued through the~~  
10 ~~exercise of stock options or warrants, from a qualified high~~  
11 ~~technology business or from a holding company of a qualified~~  
12 ~~high technology business by an employee, officer, or director of~~  
13 ~~the qualified high technology business, or investor who~~  
14 ~~qualifies for the credit under section 235-110.9, that would~~  
15 ~~otherwise be taxed as ordinary income or as capital gains to~~  
16 ~~those persons shall be excluded from taxation under this~~  
17 ~~chapter.~~

18        ~~Similar provisions shall apply to options to acquire equity~~  
19 ~~interests and to equity interests themselves with regard to~~  
20 ~~entities other than corporations.~~

21        ~~(b) For the purposes of this section:~~



1 ~~"Holding company of a qualified high technology business"~~

2 ~~means any business entity that possesses:~~

3 ~~(1) At least eighty per cent of the total voting power of~~  
4 ~~the stock or other interest; and~~

5 ~~(2) At least eighty per cent of the total value of the~~  
6 ~~stock or other interest;~~

7 ~~in the qualified high technology business.~~

8 ~~"Income earned and proceeds derived from stock options or~~  
9 ~~stock" includes income from:~~

10 ~~(1) Dividends from stock or stock received through the~~  
11 ~~exercise of stock options or warrants;~~

12 ~~(2) The receipt or the exercise of stock options or~~  
13 ~~warrants; or~~

14 ~~(3) The sale of stock options or stock, including stock~~  
15 ~~issued through the exercise of stock options or~~  
16 ~~warrants.~~

17 ~~"Qualified high technology business" means the same as~~  
18 ~~defined in section 235-7.3."]~~

19 SECTION 13. Section 235-12, Hawaii Revised Statutes, is  
20 repealed.

21 [~~§235-12 Energy conservation; income tax credit.~~ (a)

22 ~~For taxable years ending before January 1, 1990, except in the~~



1 ~~case of ice storage systems for taxable years ending before~~  
2 ~~January 1, 1991, each individual and corporate resident taxpayer~~  
3 ~~who files an individual or corporate net income tax return for a~~  
4 ~~taxable year, may claim a tax credit under this section against~~  
5 ~~the Hawaii state individual or corporate net income tax. The~~  
6 ~~tax credit may be claimed for any solar or wind energy device,~~  
7 ~~heat pump, or ice storage system in an amount not to exceed ten~~  
8 ~~per cent of the total cost of the device, heat pump, or ice~~  
9 ~~storage system; provided that the tax credit shall apply only to~~  
10 ~~the actual cost of the solar or wind energy device, the heat~~  
11 ~~pump, or ice storage system, their accessories, and installation~~  
12 ~~and shall not include the cost of consumer incentive premiums~~  
13 ~~unrelated to the operation of the solar or wind energy device,~~  
14 ~~the heat pump, or ice storage system offered with the sale of~~  
15 ~~the solar or wind energy device, the heat pump, or ice storage~~  
16 ~~system. The credit shall be claimed against net income tax~~  
17 ~~liability for the year in which the solar or wind energy device,~~  
18 ~~the heat pump, or ice storage system was purchased and placed in~~  
19 ~~use; provided:~~

20       ~~(1) The tax credit shall be applicable only with respect~~  
21           ~~to solar devices, which are erected and placed in~~





1 ~~service after December 31, 1974, but before January 1,~~  
2 ~~1990;~~

3 ~~(2) In the case of wind energy devices and heat pumps, the~~  
4 ~~tax credit shall be applicable only with respect to~~  
5 ~~wind energy devices and heat pumps which are installed~~  
6 ~~and placed in service after December 31, 1980, but~~  
7 ~~before January 1, 1990; and~~

8 ~~(3) In the case of ice storage systems, the tax credit~~  
9 ~~shall be applicable only with respect to ice storage~~  
10 ~~systems which are installed and placed in service~~  
11 ~~after December 31, 1985, but before January 1, 1990.~~

12 ~~Tax credits which exceed the taxpayer's income tax liability may~~  
13 ~~be used as a credit against the taxpayer's income tax liability~~  
14 ~~in subsequent years until exhausted. If federal energy tax~~  
15 ~~credits are not extended beyond December 31, 1985, are not~~  
16 ~~retroactively extended or reenacted, or federal energy tax~~  
17 ~~credits the same as or less in amount than the credits in effect~~  
18 ~~during the 1985 taxable year are not enacted during the taxable~~  
19 ~~year 1986, then the state tax credit shall be increased to~~  
20 ~~fifteen per cent of the total cost after December 31, 1985, but~~  
21 ~~before January 1, 1990.~~

22 ~~As used in this subsection:~~



1       ~~"Solar or wind energy device" means any new identifiable~~  
2 ~~facility, equipment, apparatus, or the like which makes use of~~  
3 ~~solar or wind energy for heating, cooling, or reducing the use~~  
4 ~~of other types of energy dependent upon fossil fuel for their~~  
5 ~~generation.~~

6       ~~"Heat pump" means and refers to an electric powered~~  
7 ~~compression heating system which extracts energy from warm~~  
8 ~~ambient air or recovers waste heat to assist in the production~~  
9 ~~of hot water.~~

10       ~~"Ice storage system" refers to ice banks or other cool~~  
11 ~~energy storage tanks, containers, accessories, and controls that~~  
12 ~~are specifically designed to store ice or chilled fluids for the~~  
13 ~~express purpose of shifting the consumption of energy to off-~~  
14 ~~peak periods.~~

15       ~~(b) For taxable years beginning after December 31, 1989,~~  
16 ~~each individual or corporate resident taxpayer who files an~~  
17 ~~individual or corporate net income tax return for a taxable~~  
18 ~~year, may claim a tax credit under this section against the~~  
19 ~~Hawaii state individual or corporate net income tax. The tax~~  
20 ~~credit may be claimed as follows:~~

21       ~~(1) For wind energy systems that are installed and placed~~  
22 ~~in service after December 31, 1989, but before July 1,~~



- 1           ~~2003, the credit shall be twenty per cent of the~~  
2           ~~actual cost;~~
- 3           ~~(2) For solar energy systems that are installed and placed~~  
4           ~~in service after December 31, 1989, but before July 1,~~  
5           ~~2003, on new and existing single family residential~~  
6           ~~buildings, the credit shall be in an amount not to~~  
7           ~~exceed thirty-five per cent or \$1,750, whichever is~~  
8           ~~less, of the actual cost of the solar energy system;~~
- 9           ~~(3) For solar energy systems that are installed and placed~~  
10           ~~in service after December 31, 1989, but before July 1,~~  
11           ~~2003, on new and existing multiunit buildings used~~  
12           ~~primarily for residential purposes, the credit shall~~  
13           ~~be in an amount not to exceed thirty-five per cent or~~  
14           ~~\$350 per building unit, whichever is less, of the~~  
15           ~~actual cost of the solar energy system;~~
- 16           ~~(4) For solar energy systems that are installed and placed~~  
17           ~~in service after December 31, 1989, but before July 1,~~  
18           ~~2003, in new and existing hotel, commercial, and~~  
19           ~~industrial facilities, the credit shall be in an~~  
20           ~~amount not to exceed thirty-five per cent of the~~  
21           ~~actual cost of the solar energy system;~~



- 1       ~~(5) For heat pumps that are installed and placed in~~  
2       ~~service after December 31, 1989, but before July 1,~~  
3       ~~2003, in new and existing single-family residential~~  
4       ~~buildings, the credit shall be in an amount not to~~  
5       ~~exceed twenty per cent or \$400, whichever is less, of~~  
6       ~~the actual cost of the heat pump;~~
- 7       ~~(6) For heat pumps that are installed and placed in~~  
8       ~~service after December 31, 1989, but before July 1,~~  
9       ~~2003, in new and existing multiunit buildings used~~  
10      ~~primarily for residential purposes, the credit shall~~  
11      ~~be in an amount not to exceed twenty per cent or \$200~~  
12      ~~per building unit, whichever is less, of the actual~~  
13      ~~cost of the heat pump; provided that a licensed~~  
14      ~~professional engineer reviews the design of the system~~  
15      ~~and provides a written opinion that the system, in~~  
16      ~~accordance with recognized engineering practice, is~~  
17      ~~designed to provide not less than ninety per cent of~~  
18      ~~the daily annual average hot water needs of all of the~~  
19      ~~occupants of the building;~~
- 20      ~~(7) For heat pumps that are installed and placed in~~  
21      ~~service after December 31, 1989, but before July 1,~~  
22      ~~2003, in new and existing hotel, commercial, and~~



1           ~~industrial facilities, the credit shall be in an~~  
2           ~~amount not to exceed twenty per cent of the actual~~  
3           ~~cost of the heat pump; and~~

4           ~~(8) For ice storage systems that are installed and placed~~  
5           ~~in service after December 31, 1990, but before July 1,~~  
6           ~~2003, the credit shall be in an amount not to exceed~~  
7           ~~fifty per cent of the actual cost of the ice storage~~  
8           ~~system.~~

9           ~~The per unit of actual cost of a solar energy system or heat~~  
10          ~~pump referred to in subsection (b) (3) and (6) shall be~~  
11          ~~determined by multiplying the actual cost of the solar energy~~  
12          ~~system or heat pump installed and placed in service in the~~  
13          ~~multiunit building by a fraction, the numerator being the total~~  
14          ~~square feet of that unit in the multiunit building, and the~~  
15          ~~denominator being the total square feet of all the units in the~~  
16          ~~multiunit building.~~

17          ~~If federal energy tax credits similar to any of those~~  
18          ~~provided in paragraphs (1) to (8) are established after June 30,~~  
19          ~~1998, but before July 1, 2003, then the state tax credit~~  
20          ~~provided in the respective paragraph or paragraphs shall be~~  
21          ~~reduced by the amount of the applicable federal energy tax~~  
22          ~~credit.~~



1       ~~(c) Tax credits shall apply only to the actual cost of the~~  
2 ~~solar or wind energy system, heat pump, or ice storage system,~~  
3 ~~including their accessories and installation, and shall not~~  
4 ~~include the cost of consumer incentive premiums unrelated to the~~  
5 ~~operation of the system or offered with the sale of the system~~  
6 ~~or heat pump. The tax credit shall be claimed against net~~  
7 ~~income tax liability for the year in which the solar or wind~~  
8 ~~energy system, heat pump, or ice storage system was purchased~~  
9 ~~and placed in use in Hawaii. Tax credits that exceed the~~  
10 ~~taxpayer's income tax liability may be used as credit against~~  
11 ~~the taxpayer's income tax liability in subsequent years until~~  
12 ~~exhausted.~~

13       ~~(d) The director of taxation shall prepare such forms as~~  
14 ~~may be necessary to claim a credit under this section. The~~  
15 ~~director may also require the taxpayer to furnish reasonable~~  
16 ~~information to ascertain the validity of the claim for credit~~  
17 ~~made under this section and may adopt rules necessary to~~  
18 ~~effectuate the purposes of this section pursuant to chapter 91.~~

19       ~~(e) As used in this section:~~

20       ~~"Solar or wind energy system" means any new identifiable~~  
21 ~~facility, equipment, apparatus, or the like that converts solar~~  
22 ~~insolation or wind energy to useful thermal or electrical energy~~



1 ~~for heating, cooling, or reducing the use of other types of~~  
2 ~~energy dependent upon fossil fuel for their generation.~~

3 ~~"Heat pump" means an electric powered compression heating~~  
4 ~~system that extracts energy from warm ambient air or recovers~~  
5 ~~waste heat to assist in the production of hot water.~~

6 ~~"Ice storage system" refers to ice banks or other cool~~  
7 ~~energy storage tanks, containers, accessories, and controls that~~  
8 ~~are specifically designed to store ice or chilled fluids for the~~  
9 ~~express purpose of shifting the consumption of energy to off-~~  
10 ~~peak periods." ]~~

11 SECTION 14. Section 235-12.5, Hawaii Revised Statutes, is  
12 repealed.

13 [~~§235-12.5 Renewable energy technologies; income tax~~  
14 ~~credit.~~ (a) ~~When the requirements of subsection (c) are met,~~  
15 ~~each individual or corporate taxpayer that files an individual~~  
16 ~~or corporate net income tax return for a taxable year may claim~~  
17 ~~a tax credit under this section against the Hawaii state~~  
18 ~~individual or corporate net income tax. The tax credit may be~~  
19 ~~claimed for every eligible renewable energy technology system~~  
20 ~~that is installed and placed in service in the State by a~~  
21 ~~taxpayer during the taxable year. This credit shall be~~  
22 ~~available for systems installed and placed in service in the~~



1 ~~State after June 30, 2003. The tax credit may be claimed as~~  
2 ~~follows:~~

3 ~~(1) Solar thermal energy systems for:~~

4 ~~(A) Single-family residential property for which a~~  
5 ~~building permit was issued prior to January 1,~~  
6 ~~2010: thirty-five per cent of the actual cost or~~  
7 ~~\$2,250, whichever is less;~~

8 ~~(B) Multi-family residential property: thirty-five~~  
9 ~~per cent of the actual cost or \$350 per unit,~~  
10 ~~whichever is less; and~~

11 ~~(C) Commercial property: thirty-five per cent of the~~  
12 ~~actual cost or \$250,000, whichever is less;~~

13 ~~(2) Wind-powered energy systems for:~~

14 ~~(A) Single-family residential property: twenty per~~  
15 ~~cent of the actual cost or \$1,500, whichever is~~  
16 ~~less;~~

17 ~~(B) Multi-family residential property: twenty per~~  
18 ~~cent of the actual cost or \$200 per unit,~~  
19 ~~whichever is less; and~~

20 ~~(C) Commercial property: twenty per cent of the~~  
21 ~~actual cost or \$500,000, whichever is less; and~~

22 ~~(3) Photovoltaic energy systems for:~~





1           ~~(A) Single-family residential property: thirty-five~~  
2           ~~per cent of the actual cost or \$5,000, whichever~~  
3           ~~is less;~~

4           ~~(B) Multi-family residential property: thirty-five~~  
5           ~~per cent of the actual cost or \$350 per unit,~~  
6           ~~whichever is less; and~~

7           ~~(C) Commercial property: thirty-five per cent of the~~  
8           ~~actual cost or \$500,000, whichever is less;~~

9           ~~provided that multiple owners of a single system shall be~~  
10          ~~entitled to a single tax credit; and provided further that the~~  
11          ~~tax credit shall be apportioned between the owners in proportion~~  
12          ~~to their contribution to the cost of the system.~~

13           ~~In the case of a partnership, S corporation, estate, or~~  
14          ~~trust, the tax credit allowable is for every eligible renewable~~  
15          ~~energy technology system that is installed and placed in service~~  
16          ~~in the State by the entity. The cost upon which the tax credit~~  
17          ~~is computed shall be determined at the entity level.~~

18          ~~Distribution and share of credit shall be determined pursuant to~~  
19          ~~section 235-110.7(a).~~

20           ~~(b) For the purposes of this section:~~

21           ~~"Actual cost" means costs related to the renewable energy~~  
22          ~~technology systems under subsection (a), including accessories~~



1 ~~and installation, but not including the cost of consumer~~  
2 ~~incentive premiums unrelated to the operation of the system or~~  
3 ~~offered with the sale of the system and costs for which another~~  
4 ~~credit is claimed under this chapter.~~

5 ~~"Renewable energy technology system" means a new system~~  
6 ~~that captures and converts a renewable source of energy, such as~~  
7 ~~wind, heat (solar thermal), or light (photovoltaic) from the sun~~  
8 ~~into:~~

- 9 ~~(1) A usable source of thermal or mechanical energy;~~
- 10 ~~(2) Electricity; or~~
- 11 ~~(3) Fuel.~~

12 ~~"Solar or wind energy system" means any identifiable~~  
13 ~~facility, equipment, apparatus, or the like that converts~~  
14 ~~insolation or wind energy to useful thermal or electrical energy~~  
15 ~~for heating, cooling, or reducing the use of other types of~~  
16 ~~energy that are dependent upon fossil fuel for their generation.~~

17 ~~(c) For taxable years beginning after December 31, 2005,~~  
18 ~~the dollar amount of any utility rebate shall be deducted from~~  
19 ~~the cost of the qualifying system and its installation before~~  
20 ~~applying the state tax credit.~~

21 ~~(d) The director of taxation shall prepare any forms that~~  
22 ~~may be necessary to claim a tax credit under this section,~~



1 ~~including forms identifying the technology type of each tax~~  
2 ~~credit claimed under this section, whether for solar thermal,~~  
3 ~~photovoltaic from the sun, or wind. The director may also~~  
4 ~~require the taxpayer to furnish reasonable information to~~  
5 ~~ascertain the validity of the claim for credit made under this~~  
6 ~~section and may adopt rules necessary to effectuate the purposes~~  
7 ~~of this section pursuant to chapter 91.~~

8 ~~(c) If the tax credit under this section exceeds the~~  
9 ~~taxpayer's income tax liability, the excess of the credit over~~  
10 ~~liability may be used as a credit against the taxpayer's income~~  
11 ~~tax liability in subsequent years until exhausted. All claims~~  
12 ~~for the tax credit under this section, including amended claims,~~  
13 ~~shall be filed on or before the end of the twelfth month~~  
14 ~~following the close of the taxable year for which the credit may~~  
15 ~~be claimed. Failure to comply with this subsection shall~~  
16 ~~constitute a waiver of the right to claim the credit.~~

17 ~~(f) By or before December, 2005, to the extent feasible,~~  
18 ~~using existing resources to assist the energy efficiency policy~~  
19 ~~review and evaluation, the department shall assist with data~~  
20 ~~collection on the following:~~



1       ~~(1) The number of renewable energy technology systems that~~  
2       ~~have qualified for a tax credit during the past year~~  
3       ~~by:~~

4       ~~(A) Technology type (solar thermal, photovoltaic from~~  
5       ~~the sun, and wind); and~~

6       ~~(B) Taxpayer type (corporate and individual); and~~

7       ~~(2) The total cost of the tax credit to the State during~~  
8       ~~the past year by:~~

9       ~~(A) Technology type; and~~

10       ~~(B) Taxpayer type.~~

11       ~~(g) For systems installed and placed in service in 2009,~~

12       ~~no residential home developer shall be entitled to claim the~~

13       ~~credit under subsections (a) (1) (A), (a) (2) (A), and (a) (3) (A). A~~

14       ~~residential home developer is defined as a person who holds more~~

15       ~~than one residential dwelling for sale as inventory." ]~~

16       SECTION 15. Section 235-15, Hawaii Revised Statutes, is  
17       repealed.

18       ~~[ "~~§235-15~~ Tax credits to promote the purchase of child~~

19       ~~passenger restraint systems. (a) Any taxpayer who files an~~

20       ~~individual income tax return for a taxable year may claim an~~

21       ~~income tax credit under this section against the Hawaii state~~

22       ~~individual net income tax.~~



1       ~~(b) The tax credit shall be \$25; provided that the~~  
2 ~~taxpayer purchases one or more new child passenger restraint~~  
3 ~~systems in the tax year for which the credit is properly~~  
4 ~~claimed; and provided that such restraint system can be shown to~~  
5 ~~be in substantial conformity with specifications for such~~  
6 ~~restraint systems set forth by the federal motor vehicle safety~~  
7 ~~standards which were in effect at the time of such purchase.~~

8       ~~(c) If the tax credit claimed by the taxpayer under this~~  
9 ~~section exceeds the amount of the income tax payments due from~~  
10 ~~the taxpayer, the excess of credit over payments due shall be~~  
11 ~~refunded to the taxpayer; provided that the tax credit properly~~  
12 ~~claimed by a taxpayer who has no income tax liability shall be~~  
13 ~~paid to the taxpayer; and provided that no refunds or payments~~  
14 ~~on account of the tax credit allowed by this section shall be~~  
15 ~~made for amounts less than \$1.~~

16       ~~(d) The director of taxation shall prepare such forms as~~  
17 ~~may be necessary to claim a credit under this section, may~~  
18 ~~require proof of the claim for the tax credit, and may adopt~~  
19 ~~rules pursuant to chapter 91.~~

20       ~~(e) All of the provisions relating to assessments and~~  
21 ~~refunds under this chapter and under section 231-23(c)(1) shall~~  
22 ~~apply to the tax credit under this section.~~



1       ~~(f) Claims for the tax credit under this section,~~  
2 ~~including any amended claims, shall be filed on or before the~~  
3 ~~end of the twelfth month following the taxable year for which~~  
4 ~~the credit may be claimed." ]~~

5       SECTION 16. Section 235-17, Hawaii Revised Statutes, is  
6 repealed.

7       ~~["§235-17 Motion picture, digital media, and film~~  
8 ~~production income tax credit. (a) Any law to the contrary~~  
9 ~~notwithstanding, there shall be allowed to each taxpayer subject~~  
10 ~~to the taxes imposed by this chapter, an income tax credit which~~  
11 ~~shall be deductible from the taxpayer's net income tax~~  
12 ~~liability, if any, imposed by this chapter for the taxable year~~  
13 ~~in which the credit is properly claimed. The amount of the~~  
14 ~~credit shall be:~~

15       ~~(1) Fifteen per cent of the qualified production costs~~  
16       ~~incurred by a qualified production in any county of~~  
17       ~~the State with a population of over seven hundred~~  
18       ~~thousand; or~~

19       ~~(2) Twenty per cent of the qualified production costs~~  
20       ~~incurred by a qualified production in any county of~~  
21       ~~the State with a population of seven hundred thousand~~  
22       ~~or less.~~



1 ~~A qualified production occurring in more than one county may~~  
2 ~~prorate its expenditures based upon the amounts spent in each~~  
3 ~~county, if the population bases differ enough to change the~~  
4 ~~percentage of tax credit.~~

5 ~~In the case of a partnership, S corporation, estate, or~~  
6 ~~trust, the tax credit allowable is for qualified production~~  
7 ~~costs incurred by the entity for the taxable year. The cost~~  
8 ~~upon which the tax credit is computed shall be determined at the~~  
9 ~~entity level. Distribution and share of credit shall be~~  
10 ~~determined by rule.~~

11 ~~If a deduction is taken under section 179 (with respect to~~  
12 ~~election to expense depreciable business assets) of the Internal~~  
13 ~~Revenue Code of 1986, as amended, no tax credit shall be allowed~~  
14 ~~for those costs for which the deduction is taken.~~

15 ~~The basis for eligible property for depreciation of~~  
16 ~~accelerated cost recovery system purposes for state income taxes~~  
17 ~~shall be reduced by the amount of credit allowable and claimed.~~

18 ~~(b) The credit allowed under this section shall be claimed~~  
19 ~~against the net income tax liability for the taxable year. For~~  
20 ~~the purposes of this section, "net income tax liability" means~~  
21 ~~net income tax liability reduced by all other credits allowed~~  
22 ~~under this chapter.~~



1       ~~(c) If the tax credit under this section exceeds the~~  
2 ~~taxpayer's income tax liability, the excess of credits over~~  
3 ~~liability shall be refunded to the taxpayer; provided that no~~  
4 ~~refunds or payment on account of the tax credits allowed by this~~  
5 ~~section shall be made for amounts less than \$1. All claims,~~  
6 ~~including any amended claims, for tax credits under this section~~  
7 ~~shall be filed on or before the end of the twelfth month~~  
8 ~~following the close of the taxable year for which the credit may~~  
9 ~~be claimed. Failure to comply with the foregoing provision~~  
10 ~~shall constitute a waiver of the right to claim the credit.~~

11       ~~(d) To qualify for this tax credit, a production shall:~~  
12       ~~(1) Meet the definition of a qualified production~~  
13       ~~specified in subsection (1);~~  
14       ~~(2) Have qualified production costs totaling at least~~  
15       ~~\$200,000;~~  
16       ~~(3) Provide the State, at a minimum, a shared-card, end-~~  
17       ~~title screen credit, where applicable;~~  
18       ~~(4) Provide evidence of reasonable efforts to hire local~~  
19       ~~talent and crew; and~~  
20       ~~(5) Provide evidence of financial or in-kind contributions~~  
21       ~~or educational or workforce development efforts, in~~  
22       ~~partnership with related local industry labor~~





1           ~~organizations, educational institutions, or both,~~  
2           ~~toward the furtherance of the local film and~~  
3           ~~television and digital media industries.~~

4           ~~(e) On or after July 1, 2006, no qualified production cost~~  
5           ~~that has been financed by investments for which a credit was~~  
6           ~~claimed by any taxpayer pursuant to section 235-110.9 is~~  
7           ~~eligible for credits under this section.~~

8           ~~(f) To receive the tax credit, the taxpayer shall first~~  
9           ~~prequalify the production for the credit by registering with the~~  
10           ~~department of business, economic development, and tourism during~~  
11           ~~the development or preproduction stage. Failure to comply with~~  
12           ~~this provision may constitute a waiver of the right to claim the~~  
13           ~~credit.~~

14           ~~(g) The director of taxation shall prepare forms as may be~~  
15           ~~necessary to claim a credit under this section. The director~~  
16           ~~may also require the taxpayer to furnish information to~~  
17           ~~ascertain the validity of the claim for credit made under this~~  
18           ~~section and may adopt rules necessary to effectuate the purposes~~  
19           ~~of this section pursuant to chapter 91.~~

20           ~~(h) Every taxpayer claiming a tax credit under this~~  
21           ~~section for a qualified production shall, no later than ninety~~  
22           ~~days following the end of each taxable year in which qualified~~



1 ~~production costs were expended, submit a written, sworn~~  
2 ~~statement to the department of business, economic development,~~  
3 ~~and tourism, identifying:~~

4 ~~(1) All qualified production costs as provided by~~  
5 ~~subsection (a), if any, incurred in the previous~~  
6 ~~taxable year;~~

7 ~~(2) The amount of tax credits claimed pursuant to this~~  
8 ~~section, if any, in the previous taxable year; and~~

9 ~~(3) The number of total hires versus the number of local~~  
10 ~~hires by category (i.e., department) and by county.~~

11 ~~(i) The department of business, economic development, and~~  
12 ~~tourism shall:~~

13 ~~(1) Maintain records of the names of the taxpayers and~~  
14 ~~qualified productions thereof claiming the tax credits~~  
15 ~~under subsection (a);~~

16 ~~(2) Obtain and total the aggregate amounts of all~~  
17 ~~qualified production costs per qualified production~~  
18 ~~and per qualified production per taxable year; and~~

19 ~~(3) Provide a letter to the director of taxation~~  
20 ~~specifying the amount of the tax credit per qualified~~  
21 ~~production for each taxable year that a tax credit is~~



1 ~~claimed and the cumulative amount of the tax credit~~  
2 ~~for all years claimed.~~

3 ~~Upon each determination required under this subsection, the~~  
4 ~~department of business, economic development, and tourism shall~~  
5 ~~issue a letter to the taxpayer, regarding the qualified~~  
6 ~~production, specifying the qualified production costs and the~~  
7 ~~tax credit amount qualified for in each taxable year a tax~~  
8 ~~credit is claimed. The taxpayer for each qualified production~~  
9 ~~shall file the letter with the taxpayer's tax return for the~~  
10 ~~qualified production to the department of taxation.~~

11 ~~Notwithstanding the authority of the department of business,~~  
12 ~~economic development, and tourism under this section, the~~  
13 ~~director of taxation may audit and adjust the tax credit amount~~  
14 ~~to conform to the information filed by the taxpayer.~~

15 ~~(j) Total tax credits claimed per qualified production~~  
16 ~~shall not exceed \$8,000,000.~~

17 ~~(k) Qualified productions shall comply with subsections~~  
18 ~~(d), (e), (f), and (h).~~

19 ~~(l) For the purposes of this section:~~

20 ~~"Commercial":~~



- 1       ~~(1) Means an advertising message that is filmed using~~
- 2             ~~film, videotape, or digital media, for dissemination~~
- 3             ~~via television broadcast or theatrical distribution;~~
- 4       ~~(2) Includes a series of advertising messages if all parts~~
- 5             ~~are produced at the same time over the course of six~~
- 6             ~~consecutive weeks; and~~
- 7       ~~(3) Does not include an advertising message with~~
- 8             ~~Internet-only distribution.~~

9       ~~"Digital media" means production methods and platforms~~  
10 ~~directly related to the creation of cinematic imagery and~~  
11 ~~content, specifically using digital means, including but not~~  
12 ~~limited to digital cameras, digital sound equipment, and~~  
13 ~~computers, to be delivered via film, videotape, interactive game~~  
14 ~~platform, or other digital distribution media (excluding~~  
15 ~~Internet-only distribution).~~

16       ~~"Post production" means production activities and services~~  
17 ~~conducted after principal photography is completed, including~~  
18 ~~but not limited to editing, film and video transfers,~~  
19 ~~duplication, transcoding, dubbing, subtitling, credits, closed~~  
20 ~~captioning, audio production, special effects (visual and~~  
21 ~~sound), graphics, and animation.~~



1       ~~"Production" means a series of activities that are directly~~  
2 ~~related to the creation of visual and cinematic imagery to be~~  
3 ~~delivered via film, videotape, or digital media and to be sold,~~  
4 ~~distributed, or displayed as entertainment or the advertisement~~  
5 ~~of products for mass public consumption, including but not~~  
6 ~~limited to scripting, casting, set design and construction,~~  
7 ~~transportation, videography, photography, sound recording,~~  
8 ~~interactive game design, and post production.~~

9       ~~"Qualified production":~~

10       ~~(1) Means a production, with expenditures in the State,~~  
11       ~~for the total or partial production of a feature-~~  
12       ~~length motion picture, short film, made-for-television~~  
13       ~~movie, commercial, music video, interactive game,~~  
14       ~~television series pilot, single season (up to~~  
15       ~~twenty-two episodes) of a television series regularly~~  
16       ~~filmed in the State (if the number of episodes per~~  
17       ~~single season exceeds twenty-two, additional episodes~~  
18       ~~for the same season shall constitute a separate~~  
19       ~~qualified production), television special, single~~  
20       ~~television episode that is not part of a television~~  
21       ~~series regularly filmed or based in the State,~~  
22       ~~national magazine show, or national talk show. For~~



1           ~~the purposes of subsections (d) and (j), each of the~~  
2           ~~aforementioned qualified production categories shall~~  
3           ~~constitute separate, individual qualified productions;~~  
4           ~~and~~

5           ~~(2) Does not include: daily news; public affairs programs;~~  
6           ~~non-national magazine or talk shows; televised~~  
7           ~~sporting events or activities; productions that~~  
8           ~~solicit funds; productions produced primarily for~~  
9           ~~industrial, corporate, institutional, or other private~~  
10           ~~purposes; and productions that include any material or~~  
11           ~~performance prohibited by chapter 712.~~

12           ~~"Qualified production costs" means the costs incurred by a~~  
13           ~~qualified production within the State that are subject to the~~  
14           ~~general excise tax under chapter 237 or income tax under this~~  
15           ~~chapter and that have not been financed by any investments for~~  
16           ~~which a credit was or will be claimed pursuant to section~~  
17           ~~235-110.9. Qualified production costs include but are not~~  
18           ~~limited to:~~

19           ~~(1) Costs incurred during preproduction such as location~~  
20           ~~scouting and related services;~~

21           ~~(2) Costs of set construction and operations, purchases or~~  
22           ~~rentals of wardrobe, props, accessories, food, office~~



- 1           ~~supplies, transportation, equipment, and related~~  
2           ~~services;~~
- 3           ~~(3) Wages or salaries of cast, crew, and musicians;~~
- 4           ~~(4) Costs of photography, sound synchronization, lighting,~~  
5           ~~and related services;~~
- 6           ~~(5) Costs of editing, visual effects, music, other post-~~  
7           ~~production, and related services;~~
- 8           ~~(6) Rentals and fees for use of local facilities and~~  
9           ~~locations;~~
- 10          ~~(7) Rentals of vehicles and lodging for cast and crew;~~
- 11          ~~(8) Airfare for flights to or from Hawaii, and interisland~~  
12          ~~flights;~~
- 13          ~~(9) Insurance and bonding;~~
- 14          ~~(10) Shipping of equipment and supplies to or from Hawaii,~~  
15          ~~and interisland shipments; and~~
- 16          ~~(11) Other direct production costs specified by the~~  
17          ~~department in consultation with the department of~~  
18          ~~business, economic development, and tourism." ]~~

19           SECTION 17. Section 235-19, Hawaii Revised Statutes, is  
20   repealed.

21           ["~~§235-19~~ ~~Exceptional trees; tax deduction.~~ (a)

22   ~~Subject to subsection (b), there shall be allowed as a deduction~~



1 ~~from gross income the amount, not to exceed \$3,000 per~~  
2 ~~exceptional tree, for amounts paid, excluding interest paid or~~  
3 ~~accrued thereon, during the taxable year by an individual~~  
4 ~~taxpayer for expenditures to maintain, on the taxpayer's real~~  
5 ~~property, each exceptional tree that has been designated by the~~  
6 ~~county arborist advisory committee under chapter 58 as an~~  
7 ~~exceptional tree.~~

8 ~~(b) No deduction shall be allowed to exceed the amount of~~  
9 ~~expenditures deemed reasonably necessary by a certified~~  
10 ~~arborist. No deduction shall be allowed in more than one~~  
11 ~~taxable year out of every three consecutive taxable years.~~

12 ~~(c) The director of taxation shall prepare such forms as~~  
13 ~~may be necessary to claim a tax deduction under this section,~~  
14 ~~may require proof of the claim for the tax deduction, including~~  
15 ~~an affidavit signed by the certified arborist, and may adopt~~  
16 ~~rules pursuant to chapter 91.~~

17 ~~(d) For the purpose of this section, the term "exceptional~~  
18 ~~tree" shall have the same meaning as defined in section 58-3."]~~

19 SECTION 18. Section 235-55.91, Hawaii Revised Statutes, is  
20 repealed.

21 [~~§235-55.91 Credit for employment of vocational~~  
22 ~~rehabilitation referrals.~~ (a) ~~There shall be allowed to each~~





1 ~~taxpayer subject to the tax imposed by this chapter, a credit~~  
2 ~~for employment of vocational rehabilitation referrals which~~  
3 ~~shall be deductible from the taxpayer's net income tax~~  
4 ~~liability, if any, imposed by this chapter for the taxable year~~  
5 ~~in which the credit is properly claimed.~~

6 ~~(b) The amount of the credit determined under this section~~  
7 ~~for the taxable year shall be equal to twenty per cent of the~~  
8 ~~qualified first-year wages for that year. The amount of the~~  
9 ~~qualified first-year wages which may be taken into account with~~  
10 ~~respect to any individual shall not exceed \$6,000.~~

11 ~~(c) For purposes of this section:~~

12 ~~"Hiring date" means the day the vocational rehabilitation~~  
13 ~~referral is hired by the employer.~~

14 ~~"Qualified first-year wages" means, with respect to any~~  
15 ~~vocational rehabilitation referral, qualified wages attributable~~  
16 ~~to service rendered during the one-year period beginning with~~  
17 ~~the day the individual begins work for the employer.~~

18 ~~"Qualified wages" means the wages paid or incurred by the~~  
19 ~~employer during the taxable year to an individual who is a~~  
20 ~~vocational rehabilitation referral and more than one-half of the~~  
21 ~~wages paid or incurred for such an individual is for services~~  
22 ~~performed in a trade or business of the employer.~~



1       ~~"Vocational rehabilitation referral" means any individual~~  
2 ~~who is certified by the department of human services vocational~~  
3 ~~rehabilitation and services for the blind division in~~  
4 ~~consultation with the Hawaii state employment service of the~~  
5 ~~department of labor and industrial relations as:~~

6       ~~(1) Having a physical or mental disability which, for such~~  
7       ~~individual, constitutes or results in a substantial~~  
8       ~~handicap to employment; and~~

9       ~~(2) Having been referred to the employer upon completion~~  
10       ~~of (or while receiving) rehabilitative services~~  
11       ~~pursuant to:~~

12       ~~(A) An individualized written rehabilitation plan~~  
13       ~~under the State's plan for vocational~~  
14       ~~rehabilitation services approved under the~~  
15       ~~Rehabilitation Act of 1973, as amended;~~

16       ~~(B) A program of vocational rehabilitation carried~~  
17       ~~out under chapter 31 of Title 38, United States~~  
18       ~~Code; or~~

19       ~~(C) An individual work plan developed and implemented~~  
20       ~~by an employment network pursuant to subsection~~  
21       ~~(g) of section 1148 of the Social Security Act,~~



1                   ~~as amended, with respect to which the~~  
2                   ~~requirements of such subsection are met.~~

3           ~~"Wages" has the meaning given to such term by section~~  
4 ~~3306(b) of the Internal Revenue Code (determined without regard~~  
5 ~~to any dollar limitation contained in the Internal Revenue Code~~  
6 ~~section). "Wages" shall not include:~~

7           ~~(1) Amounts paid or incurred by an employer for any period~~  
8           ~~to any vocational rehabilitation referral for whom the~~  
9           ~~employer receives state or federally funded payments~~  
10           ~~for on-the-job training of the individual for the~~  
11           ~~period;~~

12           ~~(2) Amounts paid to an employer (however utilized by the~~  
13           ~~employer) for any vocational rehabilitation referral~~  
14           ~~under a program established under section 414 of the~~  
15           ~~Social Security Act; and~~

16           ~~(3) If the principal place of employment is at a plant or~~  
17           ~~facility, and there is a strike or lockout involving~~  
18           ~~vocational rehabilitation referrals at the plant or~~  
19           ~~facility, amounts paid or incurred by the employer to~~  
20           ~~the vocational rehabilitation referral for services~~  
21           ~~which are the same as, or substantially similar to,~~  
22           ~~those services performed by employees participating~~



1           ~~in, or affected by, the strike or lockout during the~~  
2           ~~period of strike or lockout.~~

3           ~~(d) The following shall apply to certifications of~~  
4           ~~vocational rehabilitation referrals:~~

5           ~~(1) An individual shall not be treated as a vocational~~  
6           ~~rehabilitation referral unless, on or before the day~~  
7           ~~on which the individual begins work for the employer,~~  
8           ~~the employer:~~

9           ~~(A) Has received a certification from the department~~  
10           ~~of human services vocational rehabilitation and~~  
11           ~~services for the blind division that the~~  
12           ~~individual is a qualified vocational~~  
13           ~~rehabilitation referral; or~~

14           ~~(B) Has requested in writing the certification from~~  
15           ~~the department of human services vocational~~  
16           ~~rehabilitation and services for the blind~~  
17           ~~division that the individual is a qualified~~  
18           ~~vocational rehabilitation referral.~~

19           ~~For purposes of the preceding sentence, if on or~~  
20           ~~before the day on which the individual begins work for~~  
21           ~~the employer, the individual has received from the~~  
22           ~~department of human services vocational rehabilitation~~



1           ~~and services for the blind division a written~~  
2           ~~preliminary determination that the individual is a~~  
3           ~~vocational rehabilitation referral, then "the fifth~~  
4           ~~day" shall be substituted for "the day" in the~~  
5           ~~preceding sentence.~~

6           ~~(2) If an individual has been certified as a vocational~~  
7           ~~rehabilitation referral and the certification is~~  
8           ~~incorrect because it was based on false information~~  
9           ~~provided by the individual, the certification shall be~~  
10           ~~revoked and wages paid by the employer after the date~~  
11           ~~on which notice of revocation is received by the~~  
12           ~~employer shall not be treated as qualified wages.~~

13           ~~(3) In any request for a certification of an individual as~~  
14           ~~vocational rehabilitation referral, the employer shall~~  
15           ~~certify that a good faith effort was made to determine~~  
16           ~~that such individual is a vocational rehabilitation~~  
17           ~~referral.~~

18           ~~(c) The following wages paid to vocational rehabilitation~~  
19           ~~referrals are ineligible to be claimed by the employer for this~~  
20           ~~credit:~~



- 1       ~~(1) No wages shall be taken into account under this~~  
2       ~~section with respect to a vocational rehabilitation~~  
3       ~~referral who:~~
- 4       ~~(A) Bears any of the relationships described in~~  
5       ~~section 152(a)(1) to (8) of the Internal Revenue~~  
6       ~~Code to the taxpayer, or, if the taxpayer is a~~  
7       ~~corporation, to an individual who owns, directly~~  
8       ~~or indirectly, more than fifty per cent in value~~  
9       ~~of the outstanding stock of the corporation~~  
10       ~~(determined with the application of section~~  
11       ~~267(c) of the Internal Revenue Code);~~
- 12       ~~(B) If the taxpayer is an estate or trust, is a~~  
13       ~~grantor, beneficiary, or fiduciary of the estate~~  
14       ~~or trust, or is an individual who bears any of~~  
15       ~~the relationships described in section 152(a)(1)~~  
16       ~~to (8) of the Internal Revenue Code to a grantor,~~  
17       ~~beneficiary, or fiduciary of the estate or trust;~~  
18       ~~or~~
- 19       ~~(C) Is a dependent (described in section 152(a)(9) of~~  
20       ~~the Internal Revenue Code) of the taxpayer, or,~~  
21       ~~if the taxpayer is a corporation, of an~~  
22       ~~individual described in subparagraph (A), or, if~~



1                   ~~the taxpayer is an estate or trust, of a grantor,~~  
2                   ~~beneficiary, or fiduciary of the estate or trust.~~

3       ~~(2) No wages shall be taken into account under this~~  
4       ~~section with respect to any vocational rehabilitation~~  
5       ~~referral if, prior to the hiring date of the~~  
6       ~~individual, the individual had been employed by the~~  
7       ~~employer at any time during which the individual was~~  
8       ~~not a vocational rehabilitation referral.~~

9       ~~(3) No wages shall be taken into account under this~~  
10       ~~section with respect to any vocational rehabilitation~~  
11       ~~referral unless such individual either:~~

12           ~~(A) Is employed by the employer at least ninety days;~~  
13           ~~or~~

14           ~~(B) Has completed at least one hundred twenty hours~~  
15           ~~of services performed for the employer.~~

16       ~~(f) In the case of a successor employer referred to in~~  
17       ~~section 3306(b)(1) of the Internal Revenue Code, the~~  
18       ~~determination of the amount of the tax credit allowable under~~  
19       ~~this section with respect to wages paid by the successor~~  
20       ~~employer shall be made in the same manner as if the wages were~~  
21       ~~paid by the predecessor employer referred to in the section.~~



1       ~~(g) No credit shall be determined under this section with~~  
2 ~~respect to wages paid by an employer to a vocational~~  
3 ~~rehabilitation referral for services performed by the individual~~  
4 ~~for another person unless the amount reasonably expected to be~~  
5 ~~received by the employer for the services from the other person~~  
6 ~~exceeds the wages paid by the employer to the individual for~~  
7 ~~such services.~~

8       ~~(h) The credit allowed under this section shall be claimed~~  
9 ~~against net income tax liability for the taxable year. A tax~~  
10 ~~credit under this section which exceeds the taxpayer's income~~  
11 ~~tax liability may be used as a credit against the taxpayer's~~  
12 ~~income tax liability in subsequent years until exhausted.~~

13       ~~(i) All claims for tax credits under this section,~~  
14 ~~including any amended claims, shall be filed on or before the~~  
15 ~~end of the twelfth month following the close of the taxable year~~  
16 ~~for which the credits may be claimed. Failure to comply with~~  
17 ~~the foregoing provision shall constitute a waiver of the right~~  
18 ~~to claim the credit.~~

19       ~~(j) No deduction shall be allowed for that portion of the~~  
20 ~~wages or salaries paid or incurred for the taxable year that is~~  
21 ~~equal to the amount of the credit determined under this section.~~





1       ~~(k) The director of taxation may adopt any rules under~~  
2 ~~chapter 91 and forms necessary to carry out this section."~~]

3       SECTION 19. Section 235-110.2, Hawaii Revised Statutes, is  
4 repealed.

5       ~~["§235-110.2 Credit for school repair and maintenance.~~

6 ~~(a) There shall be allowed to each taxpayer licensed under~~  
7 ~~chapter 444, 460J, or 464, who is subject to the tax imposed by~~  
8 ~~this chapter, and does not owe the State delinquent taxes,~~  
9 ~~penalties, or interest, a credit for contributions of in-kind~~  
10 ~~services for the repair and maintenance of public schools~~  
11 ~~provided by the licensed taxpayer in Hawaii. The credit shall~~  
12 ~~be deductible from the taxpayer's net income tax liability, if~~  
13 ~~any, imposed by this chapter for the taxable year in which the~~  
14 ~~credit is properly claimed.~~

15       ~~(b) The amount of the credit determined under this section~~  
16 ~~for the taxable year shall be equal to ten per cent of the value~~  
17 ~~of contributions of in-kind services to the Hawaii school repair~~  
18 ~~and maintenance fund for that taxable year; provided that the~~  
19 ~~aggregate value of the contributions of in-kind services claimed~~  
20 ~~by a taxpayer shall not exceed \$40,000.~~

21       ~~(c) For purposes of this section:~~



1       ~~"Public schools" has the same meaning as defined in section~~  
2       ~~302A-101.~~

3       ~~"Value of contributions of in-kind services" means the fair~~  
4       ~~market value of uncompensated services or labor as determined~~  
5       ~~and certified by the department of accounting and general~~  
6       ~~services.~~

7       ~~(d) The credit allowed under this section shall be claimed~~  
8       ~~against net income tax liability for the taxable year. A tax~~  
9       ~~credit under this section which exceeds the taxpayer's income~~  
10       ~~tax liability may be used as a credit against the taxpayer's~~  
11       ~~income tax liability in subsequent years until exhausted.~~

12       ~~(e) All claims for tax credits under this section,~~  
13       ~~including any amended claims, shall be filed on or before the~~  
14       ~~end of the twelfth month following the close of the taxable year~~  
15       ~~for which the credits may be claimed. Failure to comply with~~  
16       ~~the foregoing provision shall constitute a waiver of the right~~  
17       ~~to claim the credit.~~

18       ~~(f) The department of education shall maintain records of~~  
19       ~~the names of taxpayers eligible for the credit and the total~~  
20       ~~value of in-kind services contributed for the repair and~~  
21       ~~maintenance of public schools for the taxable year. All~~  
22       ~~contributions shall be verified by the department of education.~~



1 ~~The department of education shall total all contributions that~~  
2 ~~the department of education certifies. Upon each determination,~~  
3 ~~the department of education shall issue a certificate to the~~  
4 ~~taxpayer certifying:~~

- 5       ~~(1) The amount of the contribution;~~  
6       ~~(2) That the taxpayer is licensed under chapter 444, 460J,~~  
7       ~~or 464; and~~  
8       ~~(3) That the taxpayer has obtained a current and valid~~  
9       ~~certificate signed by the director of taxation,~~  
10       ~~showing that the taxpayer does not owe the State any~~  
11       ~~delinquent taxes, penalties, or interest.~~

12       ~~The taxpayer shall file the certificate from the department~~  
13 ~~of education with the taxpayer's tax return with the department~~  
14 ~~of taxation. When the total amount of certified contributions~~  
15 ~~reaches \$2,500,000, the department of education shall~~  
16 ~~immediately discontinue certifying contributions and notify the~~  
17 ~~department of taxation. In no instance shall the total amount~~  
18 ~~of certified contributions exceed \$2,500,000 for each taxable~~  
19 ~~year.~~

20       ~~(g) The State shall provide not more than \$250,000 in tax~~  
21 ~~credits for contributions of in-kind services in Hawaii for the~~  
22 ~~repair and maintenance of public schools.~~



1       ~~(h) The director of taxation shall prepare any forms that~~  
2 ~~may be necessary to allow a credit to be claimed under this~~  
3 ~~section."]~~

4       SECTION 20. Section 235-110.3, Hawaii Revised Statutes, is  
5 repealed.

6       ~~["§235-110.3 Ethanol facility tax credit. (a) Each year~~  
7 ~~during the credit period, there shall be allowed to each~~  
8 ~~taxpayer subject to the taxes imposed by this chapter, an~~  
9 ~~ethanol facility tax credit that shall be applied to the~~  
10 ~~taxpayer's net income tax liability, if any, imposed by this~~  
11 ~~chapter for the taxable year in which the credit is properly~~  
12 ~~claimed.~~

13       ~~For each qualified ethanol production facility, the annual~~  
14 ~~dollar amount of the ethanol facility tax credit during the~~  
15 ~~eight-year period shall be equal to thirty per cent of its~~  
16 ~~nameplate capacity if the nameplate capacity is greater than~~  
17 ~~five hundred thousand but less than fifteen million gallons. A~~  
18 ~~taxpayer may claim this credit for each qualifying ethanol~~  
19 ~~facility; provided that:~~

20       ~~(1) The claim for this credit by any taxpayer of a~~  
21       ~~qualifying ethanol production facility shall not~~  
22       ~~exceed one hundred per cent of the total of all~~



1 ~~investments made by the taxpayer in the qualifying~~  
2 ~~ethanol production facility during the credit period;~~  
3 ~~(2) The qualifying ethanol production facility operated at~~  
4 ~~a level of production of at least seventy-five per~~  
5 ~~cent of its nameplate capacity on an annualized basis;~~  
6 ~~(3) The qualifying ethanol production facility is in~~  
7 ~~production on or before January 1, 2017; and~~  
8 ~~(4) No taxpayer that claims the credit under this section~~  
9 ~~shall claim any other tax credit under this chapter~~  
10 ~~for the same taxable year.~~

11 ~~(b) As used in this section:~~

12 ~~"Credit period" means a maximum period of eight years~~  
13 ~~beginning from the first taxable year in which the qualifying~~  
14 ~~ethanol production facility begins production even if actual~~  
15 ~~production is not at seventy-five per cent of nameplate~~  
16 ~~capacity.~~

17 ~~"Investment" means a nonrefundable capital expenditure~~  
18 ~~related to the development and construction of any qualifying~~  
19 ~~ethanol production facility, including processing equipment,~~  
20 ~~waste treatment systems, pipelines, and liquid storage tanks at~~  
21 ~~the facility or remote locations, including expansions or~~  
22 ~~modifications. Capital expenditures shall be those direct and~~



1 ~~certain indirect costs determined in accordance with section~~  
2 ~~263A of the Internal Revenue Code, relating to uniform~~  
3 ~~capitalization costs, but shall not include expenses for~~  
4 ~~compensation paid to officers of the taxpayer, pension and other~~  
5 ~~related costs, rent for land, the costs of repairing and~~  
6 ~~maintaining the equipment or facilities, training of operating~~  
7 ~~personnel, utility costs during construction, property taxes,~~  
8 ~~costs relating to negotiation of commercial agreements not~~  
9 ~~related to development or construction, or service costs that~~  
10 ~~can be identified specifically with a service department or~~  
11 ~~function or that directly benefit or are incurred by reason of a~~  
12 ~~service department or function. For the purposes of determining~~  
13 ~~a capital expenditure under this section, the provisions of~~  
14 ~~section 263A of the Internal Revenue Code shall apply as it read~~  
15 ~~on March 1, 2004. For purposes of this section, investment~~  
16 ~~excludes land costs and includes any investment for which the~~  
17 ~~taxpayer is at risk, as that term is used in section 465 of the~~  
18 ~~Internal Revenue Code (with respect to deductions limited to~~  
19 ~~amount at risk).~~

20 ~~"Nameplate capacity" means the qualifying ethanol~~  
21 ~~production facility's production design capacity, in gallons of~~  
22 ~~motor fuel grade ethanol per year.~~



1       ~~"Net income tax liability" means net income tax liability~~  
2 ~~reduced by all other credits allowed under this chapter.~~

3       ~~"Qualifying ethanol production" means ethanol produced from~~  
4 ~~renewable, organic feedstocks, or waste materials, including~~  
5 ~~municipal solid waste. All qualifying production shall be~~  
6 ~~fermented, distilled, gasified, or produced by physical chemical~~  
7 ~~conversion methods such as reformation and catalytic conversion~~  
8 ~~and dehydrated at the facility.~~

9       ~~"Qualifying ethanol production facility" or "facility"~~  
10 ~~means a facility located in Hawaii which produces motor fuel~~  
11 ~~grade ethanol meeting the minimum specifications by the American~~  
12 ~~Society of Testing and Materials standard D-4806, as amended.~~

13       ~~(c) In the case of a taxable year in which the cumulative~~  
14 ~~claims for the credit by the taxpayer of a qualifying ethanol~~  
15 ~~production facility exceeds the cumulative investment made in~~  
16 ~~the qualifying ethanol production facility by the taxpayer, only~~  
17 ~~that portion that does not exceed the cumulative investment~~  
18 ~~shall be claimed and allowed.~~

19       ~~(d) The department of business, economic development, and~~  
20 ~~tourism shall:~~

21       ~~(1) Maintain records of the total amount of investment~~  
22       ~~made by each taxpayer in a facility;~~



- 1       ~~(2) Verify the amount of the qualifying investment;~~
- 2       ~~(3) Total all qualifying and cumulative investments that~~  
3             ~~the department of business, economic development, and~~  
4             ~~tourism certifies; and~~
- 5       ~~(4) Certify the total amount of the tax credit for each~~  
6             ~~taxable year and the cumulative amount of the tax~~  
7             ~~credit during the credit period.~~

8             ~~Upon each determination, the department of business,~~  
9       ~~economic development, and tourism shall issue a certificate to~~  
10       ~~the taxpayer verifying the qualifying investment amounts, the~~  
11       ~~credit amount certified for each taxable year, and the~~  
12       ~~cumulative amount of the tax credit during the credit period.~~

13       ~~The taxpayer shall file the certificate with the taxpayer's tax~~  
14       ~~return with the department of taxation. Notwithstanding the~~  
15       ~~department of business, economic development, and tourism's~~  
16       ~~certification authority under this section, the director of~~  
17       ~~taxation may audit and adjust certification to conform to the~~  
18       ~~facts.~~

19             ~~If in any year, the annual amount of certified credits~~  
20       ~~reaches \$12,000,000 in the aggregate, the department of~~  
21       ~~business, economic development, and tourism shall immediately~~  
22       ~~discontinue certifying credits and notify the department of~~





1 ~~taxation. In no instance shall the total amount of certified~~  
2 ~~credits exceed \$12,000,000 per year. Notwithstanding any other~~  
3 ~~law to the contrary, this information shall be available for~~  
4 ~~public inspection and dissemination under chapter 92F.~~

5 ~~(e) If the credit under this section exceeds the~~  
6 ~~taxpayer's income tax liability, the excess of credit over~~  
7 ~~liability shall be refunded to the taxpayer; provided that no~~  
8 ~~refunds or payments on account of the tax credit allowed by this~~  
9 ~~section shall be made for amounts less than \$1. All claims for~~  
10 ~~a credit under this section must be properly filed on or before~~  
11 ~~the end of the twelfth month following the close of the taxable~~  
12 ~~year for which the credit may be claimed. Failure to comply~~  
13 ~~with the foregoing provision shall constitute a waiver of the~~  
14 ~~right to claim the credit.~~

15 ~~(f) If a qualifying ethanol production facility or an~~  
16 ~~interest therein is acquired by a taxpayer prior to the~~  
17 ~~expiration of the credit period, the credit allowable under~~  
18 ~~subsection (a) for any period after such acquisition shall be~~  
19 ~~equal to the credit that would have been allowable under~~  
20 ~~subsection (a) to the prior taxpayer had the taxpayer not~~  
21 ~~disposed of the interest. If an interest is disposed of during~~  
22 ~~any year for which the credit is allowable under subsection (a),~~



1 ~~the credit shall be allowable between the parties on the basis~~  
2 ~~of the number of days during the year the interest was held by~~  
3 ~~each taxpayer. In no case shall the credit allowed under~~  
4 ~~subsection (a) be allowed after the expiration of the credit~~  
5 ~~period.~~

6 ~~(g) Once the total nameplate capacities of qualifying~~  
7 ~~ethanol production facilities built within the State reaches or~~  
8 ~~exceeds a level of forty million gallons per year, credits under~~  
9 ~~this section shall not be allowed for new ethanol production~~  
10 ~~facilities. If a new facility's production capacity would cause~~  
11 ~~the statewide ethanol production capacity to exceed forty~~  
12 ~~million gallons per year, only the ethanol production capacity~~  
13 ~~that does not exceed the statewide forty million gallon per year~~  
14 ~~level shall be eligible for the credit.~~

15 ~~(h) Prior to construction of any new qualifying ethanol~~  
16 ~~production facility, the taxpayer shall provide written notice~~  
17 ~~of the taxpayer's intention to begin construction of a~~  
18 ~~qualifying ethanol production facility. The information shall~~  
19 ~~be provided to the department of taxation and the department of~~  
20 ~~business, economic development, and tourism on forms provided by~~  
21 ~~the department of business, economic development, and tourism,~~  
22 ~~and shall include information on the taxpayer, facility~~



1 ~~location, facility production capacity, anticipated production~~  
2 ~~start date, and the taxpayer's contact information.~~  
3 ~~Notwithstanding any other law to the contrary, this information~~  
4 ~~shall be available for public inspection and dissemination under~~  
5 ~~chapter 92F.~~

6 ~~(i) The taxpayer shall provide written notice to the~~  
7 ~~director of taxation and the director of business, economic~~  
8 ~~development, and tourism within thirty days following the start~~  
9 ~~of production. The notice shall include the production start~~  
10 ~~date and expected ethanol fuel production for the next twenty-~~  
11 ~~four months. Notwithstanding any other law to the contrary,~~  
12 ~~this information shall be available for public inspection and~~  
13 ~~dissemination under chapter 92F.~~

14 ~~(j) If a qualifying ethanol production facility fails to~~  
15 ~~achieve an average annual production of at least seventy-five~~  
16 ~~per cent of its nameplate capacity for two consecutive years,~~  
17 ~~the stated capacity of that facility may be revised by the~~  
18 ~~director of business, economic development, and tourism to~~  
19 ~~reflect actual production for the purposes of determining~~  
20 ~~statewide production capacity under subsection (g) and allowable~~  
21 ~~credits for that facility under subsection (a). Notwithstanding~~  
22 ~~any other law to the contrary, this information shall be~~



1 ~~available for public inspection and dissemination under chapter~~  
2 ~~92F.~~

3 ~~(k) Each calendar year during the credit period, the~~  
4 ~~taxpayer shall provide information to the director of business,~~  
5 ~~economic development, and tourism on the number of gallons of~~  
6 ~~ethanol produced and sold during the previous calendar year, how~~  
7 ~~much was sold in Hawaii versus overseas, feedstocks used for~~  
8 ~~ethanol production, the number of employees of the facility, and~~  
9 ~~the projected number of gallons of ethanol production for the~~  
10 ~~succeeding year.~~

11 ~~(l) In the case of a partnership, S corporation, estate,~~  
12 ~~or trust, the tax credit allowable is for every qualifying~~  
13 ~~ethanol production facility. The cost upon which the tax credit~~  
14 ~~is computed shall be determined at the entity level.~~  
15 ~~Distribution and share of credit shall be determined pursuant to~~  
16 ~~section 235-110.7(a).~~

17 ~~(m) Following each year in which a credit under this~~  
18 ~~section has been claimed, the director of business, economic~~  
19 ~~development, and tourism shall submit a written report to the~~  
20 ~~governor and legislature regarding the production and sale of~~  
21 ~~ethanol. The report shall include:~~



- 1       ~~(1) The number, location, and nameplate capacities of~~
- 2           ~~qualifying ethanol production facilities in the State;~~
- 3       ~~(2) The total number of gallons of ethanol produced and~~
- 4           ~~sold during the previous year; and~~
- 5       ~~(3) The projected number of gallons of ethanol production~~
- 6           ~~for the succeeding year.~~
- 7       ~~(n) The director of taxation shall prepare forms that may~~
- 8           ~~be necessary to claim a credit under this section.~~

9       ~~Notwithstanding the department of business, economic~~  
 10       ~~development, and tourism's certification authority under this~~  
 11       ~~section, the director may audit and adjust certification to~~  
 12       ~~conform to the facts. The director may also require the~~  
 13       ~~taxpayer to furnish information to ascertain the validity of the~~  
 14       ~~claim for credit made under this section and may adopt rules~~  
 15       ~~necessary to effectuate the purposes of this section pursuant to~~  
 16       ~~chapter 91." ]~~

17       SECTION 21. Section 235-110.51, Hawaii Revised Statutes,  
 18       is repealed.

19       ~~[ "§235-110.51 Technology infrastructure renovation tax~~  
 20       ~~credit. (a) There shall be allowed to each taxpayer subject to~~  
 21       ~~the taxes imposed by this chapter, an income tax credit which~~  
 22       ~~shall be deductible from the taxpayer's net income tax~~



1 ~~liability, if any, imposed by this chapter for the taxable year~~  
2 ~~in which the credit is properly claimed.~~

3 ~~(b) The amount of the credit shall be four per cent of the~~  
4 ~~renovation costs incurred during the taxable year for each~~  
5 ~~commercial building located in Hawaii.~~

6 ~~(c) In the case of a partnership, S corporation, estate,~~  
7 ~~trust, or any developer of a commercial building, the tax credit~~  
8 ~~allowable is for renovation costs incurred by the entity for the~~  
9 ~~taxable year. The cost upon which the tax credit is computed~~  
10 ~~shall be determined at the entity level. Distribution and share~~  
11 ~~of credit shall be determined pursuant to section 235-110.7(a).~~

12 ~~(d) If a deduction is taken under section 179 (with~~  
13 ~~respect to election to expense depreciable business assets) of~~  
14 ~~the Internal Revenue Code, no tax credit shall be allowed for~~  
15 ~~that portion of the renovation cost for which the deduction is~~  
16 ~~taken.~~

17 ~~(e) The basis of eligible property for depreciation or~~  
18 ~~accelerated cost recovery system purposes for state income taxes~~  
19 ~~shall be reduced by the amount of credit allowable and claimed.~~  
20 ~~In the alternative, the taxpayer shall treat the amount of the~~  
21 ~~credit allowable and claimed as a taxable income item for the~~



1 ~~taxable year in which it is properly recognized under the method~~  
2 ~~of accounting used to compute taxable income.~~

3 ~~(f) The credit allowed under this section shall be claimed~~  
4 ~~against the net income tax liability for the taxable year.~~

5 ~~(g) If the tax credit under this section exceeds the~~  
6 ~~taxpayer's income tax liability, the excess of credit over~~  
7 ~~liability may be carried forward until exhausted.~~

8 ~~(h) The tax credit allowed under this section shall not be~~  
9 ~~available for taxable years beginning after December 31, 2010.~~

10 ~~(i) As used in this section:~~

11 ~~"Net income tax liability" means income tax liability~~  
12 ~~reduced by all other credits allowed under this chapter.~~

13 ~~"Renovation costs" means costs incurred after December 31,~~  
14 ~~2000, to plan, design, install, construct, and purchase~~  
15 ~~technology-enabled infrastructure equipment to provide a~~  
16 ~~commercial building with technology-enabled infrastructure.~~

17 ~~"Technology-enabled infrastructure" means:~~

18 ~~(1) High speed telecommunications systems that provide~~  
19 ~~Internet access, direct satellite communications~~  
20 ~~access, and videoconferencing facilities;~~



1       ~~(2) Physical security systems that identify and verify~~  
2           ~~valid entry to secure spaces, detect invalid entry or~~  
3           ~~entry attempts, and monitor activity in these spaces;~~

4       ~~(3) Environmental systems to include heating, ventilation,~~  
5           ~~air conditioning, fire detection and suppression, and~~  
6           ~~other life safety systems; and~~

7       ~~(4) Backup and emergency electric power systems.~~

8       ~~(j) No taxpayer that claims a credit under this section~~  
9       ~~shall claim any other credit under this chapter." ]~~

10       SECTION 22. Section 235-110.6, Hawaii Revised Statutes, is  
11       repealed.

12       ~~["**\$235-110.6** **Fuel tax credit for commercial fishers.**~~

13       ~~(a) Each principal operator of a commercial fishing vessel who~~  
14       ~~files an individual or corporate net income tax return for a~~  
15       ~~taxable year may claim an income tax credit under this section~~  
16       ~~against the Hawaii state individual or corporate net income tax.~~

17       ~~(b) The tax credit shall be an amount equal to the fuel~~  
18       ~~taxes imposed under section 243-4(a) and paid by the principal~~  
19       ~~operator during the taxable year.~~

20       ~~(c) The tax credit claimed under this section by the~~  
21       ~~principal operator shall be deductible from the principal~~  
22       ~~operator's individual or corporate income tax liability, if any,~~





1 ~~for the tax year in which the credit is properly claimed;~~  
2 ~~provided that a husband and wife filing separate returns for a~~  
3 ~~taxable year for which a joint return could have been made by~~  
4 ~~them shall claim only the tax credit to which they would have~~  
5 ~~been entitled had a joint return been filed. If the tax credit~~  
6 ~~claimed by the principal operator under this section exceeds the~~  
7 ~~amount of the income tax payments due from the principal~~  
8 ~~operator, the excess of credit over payments due shall be~~  
9 ~~refunded to the principal operator; provided that the tax credit~~  
10 ~~properly claimed by a principal operator who has no income tax~~  
11 ~~liability shall be paid to the principal operator; and provided~~  
12 ~~further no refunds or payments on account of the tax credit~~  
13 ~~allowed by this section shall be made for amounts less than \$1.~~

14 ~~(d) The director of taxation shall prepare such forms as~~  
15 ~~may be necessary to claim a credit under this section, may~~  
16 ~~require proof of the claim for the tax credit, and may adopt~~  
17 ~~rules pursuant to chapter 91.~~

18 ~~(e) All of the provisions relating to assessments and~~  
19 ~~refunds under this chapter and under section 231-23(c)(1) shall~~  
20 ~~apply to the tax credit under this section.~~

21 ~~(f) Claims for the tax credit under this section,~~  
22 ~~including any amended claims thereof, shall be filed on or~~



1 ~~before the end of the twelfth month following the taxable year~~  
2 ~~for which the credit may be claimed.~~

3 ~~(g) As used in this section:~~

4 ~~(1) "Commercial fishing vessel" means any water vessel~~  
5 ~~which is used to catch or process fish or transport~~  
6 ~~fish loaded on the high seas.~~

7 ~~(2) "Principal operator" means any individual or corporate~~  
8 ~~resident taxpayer who derives at least fifty-one per~~  
9 ~~cent of the taxpayer's gross annual income from~~  
10 ~~commercial fishing operations." ]~~

11 SECTION 23. Section 235-110.7, Hawaii Revised Statutes, is  
12 repealed.

13 [~~§235-110.7 Capital goods excise tax credit.~~ (a) There  
14 shall be allowed to each taxpayer subject to the tax imposed by  
15 this chapter a capital goods excise tax credit which shall be  
16 deductible from the taxpayer's net income tax liability, if any,  
17 imposed by this chapter for the taxable year in which the credit  
18 is properly claimed.

19 The amount of the tax credit shall be determined by the  
20 application of the following rates against the cost of the  
21 eligible depreciable tangible personal property used by the  
22 taxpayer in a trade or business and placed in service within



1 ~~Hawaii after December 31, 1987. For calendar years beginning~~  
2 ~~after: December 31, 1987, the applicable rate shall be three~~  
3 ~~per cent; December 31, 1988, and thereafter, the applicable rate~~  
4 ~~shall be four per cent. For taxpayers with fiscal taxable~~  
5 ~~years, the applicable rate shall be the rate for the calendar~~  
6 ~~year in which the eligible depreciable tangible personal~~  
7 ~~property used in the trade or business is placed in service~~  
8 ~~within Hawaii.~~

9 ~~In the case of a partnership, S corporation, estate, or~~  
10 ~~trust, the tax credit allowable is for eligible depreciable~~  
11 ~~tangible personal property which is placed in service by the~~  
12 ~~entity. The cost upon which the tax credit is computed shall be~~  
13 ~~determined at the entity level. Distribution and share of~~  
14 ~~credit shall be determined by rules.~~

15 ~~In the case of eligible depreciable tangible personal~~  
16 ~~property for which a credit for sales or use taxes paid to~~  
17 ~~another state is allowable under section 238-3(i), the amount of~~  
18 ~~the tax credit allowed under this section shall not exceed the~~  
19 ~~amount of use tax actually paid under chapter 238 relating to~~  
20 ~~such tangible personal property.~~

21 ~~If a deduction is taken under section 179 (with respect to~~  
22 ~~election to expense certain depreciable business assets) of the~~



1 ~~Internal Revenue Code of 1954, as amended, no tax credit shall~~  
2 ~~be allowed for that portion of the cost of property for which~~  
3 ~~the deduction was taken.~~

4 ~~(b) If the capital goods excise tax credit allowed under~~  
5 ~~subsection (a) exceeds the taxpayer's net income tax liability,~~  
6 ~~the excess of credit over liability shall be refunded to the~~  
7 ~~taxpayer; provided that no refunds or payment on account of the~~  
8 ~~tax credit allowed by this section shall be made for amounts~~  
9 ~~less than \$1.~~

10 ~~All claims for tax credits under this section, including~~  
11 ~~any amended claims, must be filed on or before the end of the~~  
12 ~~twelfth month following the close of the taxable year for which~~  
13 ~~the credits may be claimed. Failure to comply with the~~  
14 ~~foregoing provision shall constitute a waiver of the right to~~  
15 ~~claim the credit.~~

16 ~~(c) Application for the capital goods excise tax credit~~  
17 ~~shall be upon forms provided by the department of taxation.~~

18 ~~(d) Sections 47 (with respect to dispositions of section~~  
19 ~~38 property and the recapture percentages) of the Internal~~  
20 ~~Revenue Code of 1954, as amended, as of December 31, 1984, and~~  
21 ~~280F as operative for this chapter (with respect to limitation~~  
22 ~~on investment tax credit and depreciation for luxury~~



1 ~~automobiles; limitation where certain property used for personal~~  
2 ~~purposes) of the Internal Revenue Code of 1954, as amended,~~  
3 ~~shall be operative for purposes of this section.~~

4 ~~(c) As used in this section, the definition of section 38~~  
5 ~~property (with respect to investment in depreciable tangible~~  
6 ~~personal property) as defined by section 48 (a) (1) (A), (a) (1) (B),~~  
7 ~~(a) (3), (a) (4), (a) (7), (a) (8), (a) (10) (A), (b), (c), (f), (l),~~  
8 ~~(m), and (s) of the Internal Revenue Code of 1954, as amended as~~  
9 ~~of December 31, 1984, is operative for the purposes of this~~  
10 ~~section only.~~

11 ~~As used in this section:~~

12 ~~"Cost" means (1) the actual invoice price of the tangible~~  
13 ~~personal property, or (2) the basis from which depreciation is~~  
14 ~~taken under section 167 (with respect to depreciation) or from~~  
15 ~~which a deduction may be taken under section 168 (with respect~~  
16 ~~to accelerated cost recovery system) of the Internal Revenue~~  
17 ~~Code of 1954, as amended, whichever is less.~~

18 ~~"Eligible depreciable tangible personal property" is~~  
19 ~~section 38 property as defined by the operative provisions of~~  
20 ~~section 48 and having a depreciable life under section 167 or~~  
21 ~~for which a deduction may be taken under section 168 of the~~  
22 ~~federal Internal Revenue Code of 1954, as amended.~~



1       ~~"Placed in service" means the earliest of the following~~  
2 ~~taxable years:~~

3       ~~(1) The taxable year in which, under the:~~

4           ~~(A) Taxpayer's depreciation practice, the period for~~  
5           ~~depreciation; or~~

6           ~~(B) Accelerated cost recovery system, a claim for~~  
7           ~~recovery allowances; with respect to such~~  
8           ~~property begins; or~~

9       ~~(2) The taxable year in which the property is placed in a~~  
10       ~~condition or state of readiness and availability for a~~  
11       ~~specifically assigned function.~~

12       ~~"Purchase" means an acquisition of property.~~

13       ~~"Tangible personal property" means tangible personal~~  
14 ~~property which is placed in service within Hawaii after~~  
15 ~~December 31, 1987, and the purchase or importation of which~~  
16 ~~resulted in a transaction which was subject to the imposition~~  
17 ~~and payment of tax at the rate of four per cent under chapter~~  
18 ~~237 or 238. "Tangible personal property" does not include~~  
19 ~~tangible personal property which is an integral part of a~~  
20 ~~building or structure or tangible personal property used in a~~  
21 ~~foreign trade zone, as defined under chapter 212." ]~~



1 SECTION 24. Section 235-110.8, Hawaii Revised Statutes, is  
2 repealed.

3 [~~"§235-110.8 Low-income housing tax credit. (a) Section~~  
4 ~~42 (with respect to low-income housing credit) of the Internal~~  
5 ~~Revenue Code shall be operative for the purposes of this chapter~~  
6 ~~as provided in this section.~~

7 ~~(b) Each taxpayer subject to the tax imposed by this~~  
8 ~~chapter, who has filed [a] net income tax return for a taxable~~  
9 ~~year may claim a low-income housing tax credit against the~~  
10 ~~taxpayer's net income tax liability. The amount of the credit~~  
11 ~~shall be deductible from the taxpayer's net income tax~~  
12 ~~liability, if any, imposed by this chapter for the taxable year~~  
13 ~~in which the credit is properly claimed on a timely basis. A~~  
14 ~~credit under this section may be claimed whether or not the~~  
15 ~~taxpayer claims a federal low-income housing tax credit pursuant~~  
16 ~~to section 42 of the Internal Revenue Code.~~

17 ~~(c) The low-income housing tax credit shall be fifty per~~  
18 ~~cent of the applicable percentage of the qualified basis of each~~  
19 ~~building located in Hawaii. The applicable percentage shall be~~  
20 ~~calculated as provided in section 42(b) of the Internal Revenue~~  
21 ~~Code.~~



1       ~~(d) For the purposes of this section, the determination~~  
2 ~~of:~~  
3       ~~(1) Qualified basis and qualified low-income building~~  
4       ~~shall be made under section 42(c);~~  
5       ~~(2) Eligible basis shall be made under section 42(d);~~  
6       ~~(3) Qualified low-income housing project shall be made~~  
7       ~~under section 42(g);~~  
8       ~~(4) Recapture of credit shall be made under section 42(j),~~  
9       ~~except that the tax for the taxable year shall be~~  
10       ~~increased under section 42(j)(1) only with respect to~~  
11       ~~credits that were used to reduce state income taxes;~~  
12       ~~(5) Application of at-risk rules shall be made under~~  
13       ~~section 42(k);~~  
14 ~~of the Internal Revenue Code.~~  
15       ~~(e) As provided in section 42(e), rehabilitation~~  
16       ~~expenditures shall be treated as separate new building and their~~  
17       ~~treatment under this section shall be the same as in section~~  
18       ~~42(e). The definitions and special rules relating to credit~~  
19       ~~period in section 42(f) and the definitions and special rules in~~  
20       ~~section 42(i) shall be operative for the purposes of this~~  
21       ~~section.~~





1       ~~(f) The state housing credit ceiling under section 42(h)~~  
2 ~~shall be zero for the calendar year immediately following the~~  
3 ~~expiration of the federal low-income housing tax credit program~~  
4 ~~and for any calendar year thereafter, except for the carryover~~  
5 ~~of any credit ceiling amount for certain projects in progress~~  
6 ~~which, at the time of the federal expiration, meet the~~  
7 ~~requirements of section 42.~~

8       ~~(g) The credit allowed under this section shall be claimed~~  
9 ~~against net income tax liability for the taxable year. For the~~  
10 ~~purpose of deducting this tax credit, net income tax liability~~  
11 ~~means net income tax liability reduced by all other credits~~  
12 ~~allowed the taxpayer under this chapter.~~

13       ~~A tax credit under this section which exceeds the~~  
14 ~~taxpayer's income tax liability may be used as a credit against~~  
15 ~~the taxpayer's income tax liability in subsequent years until~~  
16 ~~exhausted. All claims for a tax credit under this section must~~  
17 ~~be filed on or before the end of the twelfth month following the~~  
18 ~~close of the taxable year for which the credit may be claimed.~~  
19 ~~Failure to properly and timely claim the credit shall constitute~~  
20 ~~a waiver of the right to claim the credit. A taxpayer may claim~~  
21 ~~a credit under this section only if the building or project is a~~



1 ~~qualified low-income housing building or a qualified low-income~~  
2 ~~housing project under section 42 of the Internal Revenue Code.~~

3 ~~Section 469 (with respect to passive activity losses and~~  
4 ~~credits limited) of the Internal Revenue Code shall be applied~~  
5 ~~in claiming the credit under this section.~~

6 ~~(h) The director of taxation may adopt any rules under~~  
7 ~~chapter 91 and forms necessary to carry out this section." ]~~

8 SECTION 25. Section 235-110.9, Hawaii Revised Statutes, is  
9 repealed.

10 [~~§235-110.9 High technology business investment tax~~  
11 ~~credit.~~ (a) ~~There shall be allowed to each taxpayer subject to~~  
12 ~~the taxes imposed by this chapter a high technology business~~  
13 ~~investment tax credit that shall be deductible from the~~  
14 ~~taxpayer's net income tax liability, if any, imposed by this~~  
15 ~~chapter for the taxable year in which the investment was made~~  
16 ~~and the following four years provided the credit is properly~~  
17 ~~claimed. The tax credit shall be as follows:~~

18 (1) ~~In the year the investment was made, thirty-five per~~  
19 ~~cent;~~

20 (2) ~~In the first year following the year in which the~~  
21 ~~investment was made, twenty-five per cent;~~



1       ~~(3) In the second year following the investment, twenty~~  
2           ~~per cent;~~

3       ~~(4) In the third year following the investment, ten per~~  
4           ~~cent; and~~

5       ~~(5) In the fourth year following the investment, ten per~~  
6           ~~cent;~~

7       ~~of the investment made by the taxpayer in each qualified high~~  
8       ~~technology business, up to a maximum allowed credit in the year~~  
9       ~~the investment was made, \$700,000; in the first year following~~  
10       ~~the year in which the investment was made, \$500,000; in the~~  
11       ~~second year following the year in which the investment was made,~~  
12       ~~\$400,000; in the third year following the year in which the~~  
13       ~~investment was made, \$200,000; and in the fourth year following~~  
14       ~~the year in which the investment was made, \$200,000.~~

15       ~~(b) The credit allowed under this section shall be claimed~~  
16       ~~against the net income tax liability for the taxable year. For~~  
17       ~~the purpose of this section, "net income tax liability" means~~  
18       ~~net income tax liability reduced by all other credits allowed~~  
19       ~~under this chapter. By accepting an investment for which the~~  
20       ~~credit allowed under this section may be claimed, a qualified~~  
21       ~~high technology business consents to the public disclosure of~~



1 ~~the qualified high technology business' name and status as a~~  
2 ~~beneficiary of the credit under this section.~~

3 ~~(c) If the tax credit under this section exceeds the~~  
4 ~~taxpayer's income tax liability for any of the five years that~~  
5 ~~the credit is taken, the excess of the tax credit over liability~~  
6 ~~may be used as a credit against the taxpayer's income tax~~  
7 ~~liability in subsequent years until exhausted. Every claim,~~  
8 ~~including amended claims, for a tax credit under this section~~  
9 ~~shall be filed on or before the end of the twelfth month~~  
10 ~~following the close of the taxable year for which the credit may~~  
11 ~~be claimed. Failure to comply with the foregoing provision~~  
12 ~~shall constitute a waiver of the right to claim the credit.~~

13 ~~(d) If at the close of any taxable year in the five-year~~  
14 ~~period in subsection (a):~~

15 ~~(1) The business no longer qualifies as a qualified high~~  
16 ~~technology business;~~

17 ~~(2) The business or an interest in the business has been~~  
18 ~~sold by the taxpayer investing in the qualified high~~  
19 ~~technology business; or~~

20 ~~(3) The taxpayer has withdrawn the taxpayer's investment~~  
21 ~~wholly or partially from the qualified high technology~~  
22 ~~business;~~



1 ~~the credit claimed under this section shall be recaptured. The~~  
2 ~~recapture shall be equal to ten per cent of the amount of the~~  
3 ~~total tax credit claimed under this section in the preceding two~~  
4 ~~taxable years. The amount of the credit recaptured shall apply~~  
5 ~~only to the investment in the particular qualified high~~  
6 ~~technology business that meets the requirements of paragraph~~  
7 ~~(1), (2), or (3). The recapture provisions of this subsection~~  
8 ~~shall not apply to a tax credit claimed for a qualified high~~  
9 ~~technology business that does not fall within the provisions of~~  
10 ~~paragraph (1), (2), or (3). The amount of the recaptured tax~~  
11 ~~credit determined under this subsection shall be added to the~~  
12 ~~taxpayer's tax liability for the taxable year in which the~~  
13 ~~recapture occurs under this subsection.~~

14 ~~(e) Every taxpayer, before March 31 of each year in which~~  
15 ~~an investment in a qualified high technology business was made~~  
16 ~~in the previous taxable year, shall submit a written, certified~~  
17 ~~statement to the director of taxation identifying:~~

18 ~~(1) Qualified investments, if any, expended in the~~  
19 ~~previous taxable year; and~~

20 ~~(2) The amount of tax credits claimed pursuant to this~~  
21 ~~section, if any, in the previous taxable year.~~

22 ~~(f) The department shall:~~



- 1       ~~(1) Maintain records of the names and addresses of the~~  
2           ~~taxpayers claiming the credits under this section and~~  
3           ~~the total amount of the qualified investment costs~~  
4           ~~upon which the tax credit is based;~~
- 5       ~~(2) Verify the nature and amount of the qualifying~~  
6           ~~investments;~~
- 7       ~~(3) Total all qualifying and cumulative investments that~~  
8           ~~the department certifies; and~~
- 9       ~~(4) Certify the amount of the tax credit for each taxable~~  
10           ~~year and cumulative amount of the tax credit.~~

11       ~~Upon each determination made under this subsection, the~~  
12       ~~department shall issue a certificate to the taxpayer verifying~~  
13       ~~information submitted to the department, including qualifying~~  
14       ~~investment amounts, the credit amount certified for each taxable~~  
15       ~~year, and the cumulative amount of the tax credit during the~~  
16       ~~credit period. The taxpayer shall file the certificate with the~~  
17       ~~taxpayer's tax return with the department.~~

18       ~~The director of taxation may assess and collect a fee to~~  
19       ~~offset the costs of certifying tax credits claims under this~~  
20       ~~section. All fees collected under this section shall be~~  
21       ~~deposited into the tax administration special fund established~~  
22       ~~under section 235-20.5.~~



1       ~~(g) As used in this section:~~

2       ~~"Investment tax credit allocation ratio" means, with~~  
3 ~~respect to a taxpayer that has made an investment in a qualified~~  
4 ~~high technology business, the ratio of:~~

5       ~~(1) The amount of the credit under this section that is,~~  
6       ~~or is to be, received by or allocated to the taxpayer~~  
7       ~~over the life of the investment, as a result of the~~  
8       ~~investment; to~~

9       ~~(2) The amount of the investment in the qualified high~~  
10       ~~technology business.~~

11       ~~"Qualified high technology business" means a business,~~  
12 ~~employing or owning capital or property, or maintaining an~~  
13 ~~office, in this State; provided that:~~

14       ~~(1) More than fifty per cent of its total business~~  
15       ~~activities are qualified research; and provided~~  
16       ~~further that the business conducts more than seventy-~~  
17       ~~five per cent of its qualified research in this State;~~  
18       ~~or~~

19       ~~(2) More than seventy-five per cent of its gross income is~~  
20       ~~derived from qualified research; and provided further~~  
21       ~~that this income is received from:~~



1           ~~(A) Products sold from, manufactured in, or produced~~  
2           ~~in this State; or~~

3           ~~(B) Services performed in this State.~~

4           ~~"Qualified research" means the same as defined in section~~  
5           ~~235-7.3.~~

6           ~~(h) Common law principles, including the doctrine of~~  
7           ~~economic substance and business purpose, shall apply to any~~  
8           ~~investment. There exists a presumption that a transaction~~  
9           ~~satisfies the doctrine of economic substance and business~~  
10           ~~purpose to the extent that the special allocation of the high~~  
11           ~~technology business tax credit has an investment tax credit~~  
12           ~~ratio of 1.5 or less of credit for every dollar invested.~~

13           ~~Transactions for which an investment tax credit allocation~~  
14           ~~ratio greater than 1.5 but not more than 2.0 of credit for every~~  
15           ~~dollar invested and claimed may be reviewed by the department~~  
16           ~~for applicable doctrines of economic substance and business~~  
17           ~~purpose.~~

18           ~~Businesses claiming a tax credit for transactions with~~  
19           ~~investment tax credit allocation ratios greater than 2.0 of~~  
20           ~~credit for every dollar invested shall substantiate economic~~  
21           ~~merit and business purpose consistent with this section.~~





1       ~~(i) This section shall not apply to taxable years~~  
2 ~~beginning after December 31, 2010."]~~

3       SECTION 26. Section 235-110.91, Hawaii Revised Statutes,  
4 is repealed.

5       ~~["§235-110.91 Tax credit for research activities. (a)~~  
6 ~~Section 41 (with respect to the credit for increasing research~~  
7 ~~activities) and section 280C(c) (with respect to certain~~  
8 ~~expenses for which the credit for increasing research activities~~  
9 ~~are allowable) of the Internal Revenue Code shall be operative~~  
10 ~~for the purposes of this chapter as provided in this section;~~  
11 ~~except that references to the base amount shall not apply and~~  
12 ~~credit for all qualified research expenses may be taken without~~  
13 ~~regard to the amount of expenses for previous years. If section~~  
14 ~~41 of the Internal Revenue Code is repealed or terminated prior~~  
15 ~~to January 1, 2011, its provisions shall remain in effect for~~  
16 ~~purposes of the income tax law of the State as modified by this~~  
17 ~~section, as provided for in subsection (j).~~

18       ~~(b) All references to Internal Revenue Code sections~~  
19 ~~within sections 41 and 280C(c) of the Internal Revenue Code~~  
20 ~~shall be operative for purposes of this section.~~

21       ~~(c) There shall be allowed to each qualified high~~  
22 ~~technology business subject to the tax imposed by this chapter~~



1 ~~an income tax credit for qualified research activities equal to~~  
2 ~~the credit for research activities provided by section 41 of the~~  
3 ~~Internal Revenue Code and as modified by this section. The~~  
4 ~~credit shall be deductible from the taxpayer's net income tax~~  
5 ~~liability, if any, imposed by this chapter for the taxable year~~  
6 ~~in which the credit is properly claimed.~~

7 ~~(d) Every qualified high technology business, before March~~  
8 ~~31 of each year in which qualified research and development~~  
9 ~~activity was conducted in the previous taxable year, shall~~  
10 ~~submit a written, certified statement to the director of~~  
11 ~~taxation identifying:~~

12 ~~(1) Qualified expenditures, if any, expended in the~~  
13 ~~previous taxable year; and~~

14 ~~(2) The amount of tax credits claimed pursuant to this~~  
15 ~~section, if any, in the previous taxable year.~~

16 ~~(e) The department shall:~~

17 ~~(1) Maintain records of the names and addresses of the~~  
18 ~~taxpayers claiming the credits under this section and~~  
19 ~~the total amount of the qualified research and~~  
20 ~~development activity costs upon which the tax credit~~  
21 ~~is based;~~



- 1       ~~(2) Verify the nature and amount of the qualifying costs~~  
2           ~~or expenditures;~~
- 3       ~~(3) Total all qualifying and cumulative costs or~~  
4           ~~expenditures that the department certifies; and~~
- 5       ~~(4) Certify the amount of the tax credit for each taxable~~  
6           ~~year and cumulative amount of the tax credit.~~

7       ~~Upon each determination made under this subsection, the~~  
8       ~~department shall issue a certificate to the taxpayer verifying~~  
9       ~~information submitted to the department, including the~~  
10       ~~qualifying costs or expenditure amounts, the credit amount~~  
11       ~~certified for each taxable year, and the cumulative amount of~~  
12       ~~the tax credit during the credit period. The taxpayer shall~~  
13       ~~file the certificate with the taxpayer's tax return with the~~  
14       ~~department.~~

15       ~~The director of taxation may assess and collect a fee to~~  
16       ~~offset the costs of certifying tax credit claims under this~~  
17       ~~section. All fees collected under this section shall be~~  
18       ~~deposited into the tax administration special fund established~~  
19       ~~under section 235-20.5.~~

20       ~~(f) As used in this section:~~



1       ~~"Basic research" under section 41(c) of the Internal~~  
2 ~~Revenue Code shall not include research conducted outside of the~~  
3 ~~State.~~

4       ~~"Qualified high technology business" means the same as in~~  
5 ~~section 235-110.9.~~

6       ~~"Qualified research" under section 41(d)(1) of the Internal~~  
7 ~~Revenue Code shall not include research conducted outside of the~~  
8 ~~State.~~

9       ~~(g) If the tax credit for qualified research activities~~  
10 ~~claimed by a taxpayer exceeds the amount of income tax payment~~  
11 ~~due from the taxpayer, the excess of the tax credit over~~  
12 ~~payments due shall be refunded to the taxpayer; provided that no~~  
13 ~~refund on account of the tax credit allowed by this section~~  
14 ~~shall be made for amounts less than \$1.~~

15       ~~(h) All claims for a tax credit under this section shall~~  
16 ~~be filed on or before the end of the twelfth month following the~~  
17 ~~close of the taxable year for which the credit may be claimed.~~  
18 ~~Failure to properly claim the credit shall constitute a waiver~~  
19 ~~of the right to claim the credit.~~

20       ~~(i) The director of taxation may adopt any rules under~~  
21 ~~chapter 91 and forms necessary to carry out this section.~~



1       ~~(j) This section shall not apply to taxable years~~  
2 ~~beginning after December 31, 2010." ]~~

3       SECTION 27. Section 235-110.93, Hawaii Revised Statutes,  
4 is repealed.

5       ~~[ "~~§235-110.93~~ Important agricultural land qualified~~  
6 ~~agricultural cost tax credit.~~ (a) ~~There shall be allowed to~~  
7 ~~each taxpayer an important agricultural land qualified~~  
8 ~~agricultural cost tax credit that may be claimed in taxable~~  
9 ~~years beginning after the taxable year during which the tax~~  
10 ~~credit under section 235-110.46 is repealed, exhausted, or~~  
11 ~~expired. The credit shall be deductible from the taxpayer's net~~  
12 ~~income tax liability, if any, imposed by this chapter for the~~  
13 ~~taxable year in which the credit is properly claimed. The tax~~  
14 ~~credit amount shall be determined as follows:~~

15       ~~(1) In the first year in which the credit is claimed,~~  
16       ~~twenty-five per cent of the lesser of the following:~~  
17       ~~(A) The qualified agricultural costs incurred by the~~  
18       ~~taxpayer after July 1, 2008; or~~  
19       ~~(B) \$625,000;~~  
20       ~~(2) In the second year in which the credit is claimed,~~  
21       ~~fifteen per cent of the lesser of the following:~~



1           ~~(A) The qualified agricultural costs incurred by the~~  
2           ~~taxpayer after July 1, 2008; or~~

3           ~~(B) \$250,000; and~~

4           ~~(3) In the third year in which the credit is claimed, ten~~  
5           ~~per cent of the lesser of the following:~~

6           ~~(A) The qualified agricultural costs incurred by the~~  
7           ~~taxpayer after July 1, 2008; or~~

8           ~~(B) \$125,000.~~

9           ~~The taxpayer may incur qualified agricultural costs during a~~  
10           ~~taxable year in anticipation of claiming the credit in future~~  
11           ~~taxable years during which the credit is available. The~~  
12           ~~taxpayer may claim the credit in any taxable year after the~~  
13           ~~taxable year during which the taxpayer incurred the qualified~~  
14           ~~agricultural costs upon which the credit is claimed. The~~  
15           ~~taxpayer also may claim the credit in consecutive or~~  
16           ~~inconsecutive taxable years until exhausted.~~

17           ~~(b) No other credit may be claimed under this chapter for~~  
18           ~~qualified agricultural costs for which a credit is claimed under~~  
19           ~~this section for the taxable year.~~

20           ~~(c) The amount of the qualified agricultural costs~~  
21           ~~eligible to be claimed under this section shall be reduced by~~  
22           ~~the amount of funds received by the taxpayer during the taxable~~



1 ~~year from the irrigation repair and maintenance special fund~~  
2 ~~under section 167-24.~~

3 ~~(d) The cost upon which the tax credit is computed shall~~  
4 ~~be determined at the entity level. In the case of a~~  
5 ~~partnership, S corporation, estate, trust, or other pass through~~  
6 ~~entity, distribution and share of the credit shall be determined~~  
7 ~~pursuant to section 235-110.7(a).~~

8 ~~If a deduction is taken under section 179 (with respect to~~  
9 ~~election to expense depreciable business assets) of the Internal~~  
10 ~~Revenue Code, no tax credit shall be allowed for that portion of~~  
11 ~~the qualified agricultural cost for which a deduction was taken.~~

12 ~~The basis of eligible property for depreciation or~~  
13 ~~accelerated cost recovery system purposes for state income taxes~~  
14 ~~shall be reduced by the amount of credit allowable and claimed.~~  
15 ~~No deduction shall be allowed for that portion of otherwise~~  
16 ~~deductible qualified agricultural costs on which a credit is~~  
17 ~~claimed under this section.~~

18 ~~(e) If the credit under this section exceeds the~~  
19 ~~taxpayer's net income tax liability for the taxable year, the~~  
20 ~~excess of the credit over liability shall be refunded to the~~  
21 ~~taxpayer; provided that no refunds or payments on account of the~~



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

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

9 ~~(f) The director of taxation:~~

10 ~~(1) Shall prepare any forms that may be necessary to claim~~  
11 ~~a credit under this section;~~

12 ~~(2) May require the taxpayer to furnish information to~~  
13 ~~ascertain the validity of the claim for credit made~~  
14 ~~under this section; and~~

15 ~~(3) May adopt rules pursuant to chapter 91 to effectuate~~  
16 ~~this section.~~

17 ~~(g) The department of agriculture shall:~~

18 ~~(1) Maintain records of the total amount of qualified~~  
19 ~~agricultural costs for each taxpayer claiming a~~  
20 ~~credit;~~

21 ~~(2) Verify the amount of the qualified agricultural costs~~  
22 ~~claimed;~~





- 1       ~~(3) Total all qualified agricultural costs claimed; and~~  
2       ~~(4) Certify the total amount of the tax credit for each~~  
3       ~~taxable year.~~

4       ~~Upon each determination, the department of agriculture~~  
5       ~~shall issue a certificate to the taxpayer verifying the~~  
6       ~~qualifying agricultural costs and the credit amount certified~~  
7       ~~for each taxable year. For a taxable year, the department of~~  
8       ~~agriculture may certify a credit for a taxpayer who could have~~  
9       ~~claimed the credit in a previous taxable year, but chose not to~~  
10       ~~because the maximum annual credit amount under subsection (h)~~  
11       ~~was reached in that taxable year.~~

12       ~~The taxpayer shall file the certificate with the taxpayer's~~  
13       ~~tax return with the department of taxation. Notwithstanding the~~  
14       ~~department of agriculture's certification authority under this~~  
15       ~~section, the director of taxation may audit and adjust~~  
16       ~~certification to conform to the facts.~~

17       ~~Notwithstanding any other law to the contrary, the~~  
18       ~~information required by this subsection shall be available for~~  
19       ~~public inspection and dissemination under chapter 92F.~~

20       ~~(h) If in any taxable year the annual amount of certified~~  
21       ~~credits reaches \$7,500,000 in the aggregate, the department of~~  
22       ~~agriculture shall immediately discontinue certifying credits and~~



1 ~~notify the department of taxation. In no instance shall the~~  
2 ~~department of agriculture certify a total amount of credits~~  
3 ~~exceeding \$7,500,000 per taxable year. To comply with this~~  
4 ~~restriction, the department of agriculture shall certify credits~~  
5 ~~on a first come, first served basis.~~

6 ~~The department of taxation shall not allow the aggregate~~  
7 ~~amount of credits claimed to exceed that amount per taxable~~  
8 ~~year.~~

9 ~~(i) The department of agriculture, in consultation with~~  
10 ~~the department of taxation, shall annually determine the~~  
11 ~~information necessary to provide a quantitative and qualitative~~  
12 ~~assessment of the outcomes of the tax credit.~~

13 ~~Every taxpayer, no later than the last day of the taxable~~  
14 ~~year following the close of the taxpayer's taxable year in which~~  
15 ~~the credit is claimed, shall submit a certified written~~  
16 ~~statement to the department of agriculture. Failure to provide~~  
17 ~~the information shall result in ineligibility and a recapture of~~  
18 ~~any credit already claimed for that taxable year. The amount of~~  
19 ~~the recaptured tax credit shall be added to the taxpayer's tax~~  
20 ~~liability for the taxable year in which the recapture occurs.~~

21 ~~Notwithstanding any law to the contrary, a statement~~  
22 ~~submitted under this subsection shall be a public document.~~



1       ~~(j) The department of agriculture, in consultation with~~  
2 ~~the department of taxation, shall annually submit a report~~  
3 ~~evaluating the effectiveness of the tax credit. The report~~  
4 ~~shall include but not be limited to findings and recommendations~~  
5 ~~to improve the effectiveness of the tax credit to further~~  
6 ~~encourage the development of agricultural businesses.~~

7       ~~(k) As used in this section:~~

8       ~~"Agricultural business" means any person with a commercial~~  
9 ~~agricultural, silvicultural, or aquacultural facility or~~  
10 ~~operation, including:~~

11       ~~(1) The care and production of livestock and livestock~~  
12       ~~products, poultry and poultry products, apiary~~  
13       ~~products, and plant and animal production for nonfood~~  
14       ~~uses;~~

15       ~~(2) The planting, cultivating, harvesting, and processing~~  
16       ~~of crops; and~~

17       ~~(3) The farming or ranching of any plant or animal species~~  
18       ~~in a controlled salt, brackish, or freshwater~~  
19       ~~environment;~~

20 ~~provided that the principal place of the agricultural business~~  
21 ~~is maintained in the State and more than fifty per cent of the~~



1 ~~land the agricultural business owns or leases, excluding land~~  
2 ~~classified as conservation land, is important agricultural land.~~

3 ~~"Important agricultural lands" means lands identified and~~  
4 ~~designated as important agricultural lands pursuant to part III~~  
5 ~~of chapter 205.~~

6 ~~"Net income tax liability" means income tax liability~~  
7 ~~reduced by all other credits allowed under this chapter.~~

8 ~~"Qualified agricultural costs" means expenditures for:~~

9 ~~(1) The plans, design, engineering, construction,~~  
10 ~~renovation, repair, maintenance, and equipment for:~~

11 ~~(A) Roads or utilities, primarily for agricultural~~  
12 ~~purposes, where the majority of the lands~~  
13 ~~serviced by the roads or utilities, excluding~~  
14 ~~lands classified as conservation lands, are~~  
15 ~~important agricultural lands;~~

16 ~~(B) Agricultural processing facilities in the State,~~  
17 ~~primarily for agricultural purposes, where the~~  
18 ~~majority of the crops or livestock processed,~~  
19 ~~harvested, treated, washed, handled, or packaged~~  
20 ~~are from agricultural businesses;~~

21 ~~(C) Water wells, reservoirs, dams, water storage~~  
22 ~~facilities, water pipelines, ditches, or~~



1           ~~irrigation systems in the State, primarily for~~  
2           ~~agricultural purposes, providing water for lands,~~  
3           ~~the majority of which, excluding lands classified~~  
4           ~~as conservation lands, are important agricultural~~  
5           ~~lands; and~~

6           ~~(D) Agricultural housing in the State, exclusively~~  
7           ~~for agricultural purposes; provided that:~~

8           ~~(i) The housing units are occupied solely by~~  
9           ~~farmers or employees for agricultural~~  
10           ~~businesses and their immediate family~~  
11           ~~members;~~

12           ~~(ii) The housing units are owned by the~~  
13           ~~agricultural business;~~

14           ~~(iii) The housing units are in the general~~  
15           ~~vicinity, as determined by the department of~~  
16           ~~agriculture, of agricultural lands owned or~~  
17           ~~leased by the agricultural business; and~~

18           ~~(iv) The housing units conform to any other~~  
19           ~~conditions that may be required by the~~  
20           ~~department of agriculture;~~



1       ~~(2) Feasibility studies, regulatory processing, and legal~~  
2           ~~and accounting services related to the items under~~  
3           ~~paragraph (1);~~

4       ~~(3) Equipment, primarily for agricultural purposes, used~~  
5           ~~to cultivate, grow, harvest, or process agricultural~~  
6           ~~products by an agricultural business; and~~

7       ~~(4) Regulatory processing, studies, and legal and other~~  
8           ~~consultant services related to obtaining or retaining~~  
9           ~~sufficient water for agricultural activities and~~  
10          ~~retaining the right to farm on lands identified as~~  
11          ~~important agricultural lands.~~

12       ~~(1) The department of agriculture shall cease certifying~~  
13       ~~credits pursuant to this section after the fourth taxable year~~  
14       ~~following the taxable year during which the credits are first~~  
15       ~~claimed; provided that a taxpayer with accumulated, but~~  
16       ~~unclaimed, certified credits may continue claiming the credits~~  
17       ~~in subsequent taxable years until exhausted.~~

18       ~~[(m)] The department of taxation, in consultation with the~~  
19       ~~department of agriculture, shall submit to the legislature an~~  
20       ~~annual report, no later than twenty days prior to the convening~~  
21       ~~of each regular session, beginning with the regular session of~~  
22       ~~2010, regarding the quantitative and qualitative assessment of~~



1 ~~the impact of the important agricultural land qualified~~  
2 ~~agricultural cost tax credit."]~~

3 SECTION 28. Section 241-4.5, Hawaii Revised Statutes, is  
4 repealed.

5 [~~["§241-4.5] Capital goods excise tax credit. The capital~~  
6 ~~goods excise tax credit provided under section 235-110.7 shall~~  
7 ~~be operative for this chapter after December 31, 1987."]~~

8 SECTION 29. Section 241-4.6, Hawaii Revised Statutes, is  
9 repealed.

10 [~~["§241-4.6 Renewable energy technologies; income tax~~  
11 ~~credit. The renewable energy technologies income tax credit~~  
12 ~~provided under section 235-12.5 shall be operative for this~~  
13 ~~chapter for taxable years beginning after December 31, 2002;~~  
14 ~~provided that the system was installed after June 30, 2003."]~~

15 SECTION 30. Section 241-4.7, Hawaii Revised Statutes, is  
16 repealed.

17 [~~["§241-4.7] Low-income housing; income tax credit. The~~  
18 ~~low-income housing tax credit provided under section 235-110.8~~  
19 ~~shall be operative for this chapter."]~~

20 SECTION 31. Section 241-4.8, Hawaii Revised Statutes, is  
21 repealed.



1           ~~["**\$241-4.8** **High technology business investment tax**~~  
2 ~~**credit.** The high technology business investment tax credit~~  
3 ~~provided under section 235-110.9 shall be operative for this~~  
4 ~~chapter on July 1, 1999."]~~

5           SECTION 32. Section 431:7-208, Hawaii Revised Statutes, is  
6 repealed.

7           ~~["**\$431:7-208** **Low-income housing, insurance premium tax**~~  
8 ~~**credit.** The low-income housing tax credit provided under~~  
9 ~~section 235-110.8 shall be operative for this chapter and may be~~  
10 ~~claimed against the tax imposed under section 431:7-202."]~~

11           SECTION 33. Section 431:7-209, Hawaii Revised Statutes, is  
12 repealed.

13           ~~["**\$431:7-209** **High technology business investment tax**~~  
14 ~~**credit.** The high technology business investment tax credit~~  
15 ~~provided under section 235-110.9 shall be operative for this~~  
16 ~~chapter on July 1, 1999."]~~

17           SECTION 34. The repeal of a tax credit or deduction under  
18 this Act shall not affect the entitlement of a taxpayer to the  
19 unused amount of the credit or deduction that was accrued before  
20 the repeal.

21           SECTION 35. Statutory material to be repealed is bracketed  
22 and stricken. New statutory material is underscored.





1 SECTION 36. This Act shall:  
2 (1) Take effect on January 1, 2010, and shall apply to  
3 taxable years beginning after December 31, 2009; and  
4 (2) Be repealed on December 31, 2015; provided that any  
5 provision repealed by operation of law on or before  
6 December 31, 2015 shall not be deemed to be reenacted.

7  
INTRODUCED BY: Calvin H. Boy



**Report Title:**

Income Tax; Reform

**Description:**

Reduces the income tax rate for the lower brackets. Repeals various income tax credits and deductions.

