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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 make the federal  
2 work opportunity credit temporarily operative in the State.  
3 Through this Act, the legislature intends to promote the  
4 immediate creation of jobs in Hawaii.

5 SECTION 2. Chapter 235, Hawaii Revised Statutes, is  
6 amended by adding a new section to part VI to be appropriately  
7 designated and to read as follows:

8 "§235- Work opportunity credit; operative. (a) The  
9 work opportunity credit, as a component part of the general  
10 business credit under section 38(b)(2) of the Internal Revenue  
11 Code, shall be operative for the purpose of this chapter. No  
12 other credit component under the federal general business credit  
13 shall be operable.

14 (b) The work opportunity credit of section 51 of the  
15 Internal Revenue Code shall be operative for the purpose of this  
16 section; except that:



- 1        (1) "Qualified first-year wages" means the same as defined  
2        under section 51 of the Internal Revenue Code, except  
3        as modified by this subsection;
- 4        (2) Notwithstanding section 51(b)(3) of the Internal  
5        Revenue Code, the amount of the qualified first-year  
6        wages that applies to any individual, including a  
7        qualified veteran, for any year shall not exceed  
8        \$6,000;
- 9        (3) Notwithstanding section 51(c)(4) of the Internal  
10       Revenue Code, the term "wages" shall not include any  
11       amount paid to or incurred by an individual who begins  
12       work for an employer:
- 13       (A) Before January 1, 2010; or  
14       (B) After December 31, 2013;
- 15       (4) No credit shall be available for any wages paid or  
16       incurred before January 1, 2010, or after December 31,  
17       2013; and
- 18       (5) No credit shall be available for any wages paid or  
19       incurred for jobs located outside of Hawaii.
- 20       (c) All references to Internal Revenue Code sections  
21       within section 38 and section 51 of the Internal Revenue Code



1 shall be operative for the purpose of this section unless they  
2 are inconsistent with subsection (a) or (b).

3 (d) There shall be allowed to an individual or corporate  
4 taxpayer a work opportunity credit as provided by sections 38  
5 and 51 of the Internal Revenue Code. The credit shall be equal  
6 to fifty per cent of the federal work opportunity credit. The  
7 credit shall be deductible from the taxpayer's net income tax  
8 liability, if any, imposed by this chapter for the taxable year  
9 in which the credit is properly claimed.

10 (e) If the work opportunity credit claimed by a taxpayer  
11 exceeds the amount of income tax payment due from the taxpayer,  
12 the excess of the credit over payment due may be carried over  
13 and claimed in subsequent tax years until exhausted; provided  
14 that any excess tax credit shall not be refundable.

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

20 (g) The director of taxation may adopt rules that shall be  
21 exempt from the public notice requirements of chapter 91, except  
22 that the director shall hold at least one public hearing before



1 rule adoption. The director shall also prepare forms necessary  
2 to carry out this section.

3 (h) This section shall not apply to taxable years  
4 beginning after December 31, 2013."

5 SECTION 3. Section 235-2.3, Hawaii Revised Statutes, is  
6 amended by amending subsection (b) to read as follows:

7 "(b) The following Internal Revenue Code subchapters,  
8 parts of subchapters, sections, subsections, and parts of  
9 subsections shall not be operative for the purposes of this  
10 chapter, unless otherwise provided:

11 (1) Subchapter A (sections 1 to 59A) (with respect to  
12 determination of tax liability), except section  
13 1(h)(2) (relating to net capital gain reduced by the  
14 amount taken into account as investment income),  
15 except sections 2(a), 2(b), and 2(c) (with respect to  
16 the definition of "surviving spouse" and "head of  
17 household"), except section 38 (with respect to the  
18 work opportunity credit component of the general  
19 business credit) see section 235- , for treatment,  
20 except section 41 (with respect to the credit for  
21 increasing research activities), except section 42  
22 (with respect to low-income housing credit), except



1 sections 47 and 48, as amended, as of December 31,  
2 1984 (with respect to certain depreciable tangible  
3 personal property), [~~and~~] except section 48(d)(3), as  
4 amended, as of February 17, 2009 (with respect to the  
5 treatment of United States Department of Treasury  
6 grants made under section 1603 of the American  
7 Recovery and Reinvestment Tax Act of 2009) [~~-~~], and  
8 section 51 (with respect to the work opportunity  
9 credit). For treatment, see sections 235-110.91, 235-  
10 110.7, [~~and~~] 235-110.8[~~-~~], and 235- ;

11 (2) Section 78 (with respect to dividends received from  
12 certain foreign corporations by domestic corporations  
13 choosing foreign tax credit);

14 (3) Section 86 (with respect to social security and tier 1  
15 railroad retirement benefits);

16 (4) Section 103 (with respect to interest on state and  
17 local bonds). For treatment, see section 235-7(b);

18 (5) Section 114 (with respect to extraterritorial income).

19 For treatment, any transaction as specified in the  
20 transitional rule for 2005 and 2006 as specified in  
21 the American Jobs Creation Act of 2004 section 101(d)  
22 and any transaction that has occurred pursuant to a



- 1 binding contract as specified in the American Jobs  
2 Creation Act of 2004 section 101(f) are inoperative;
- 3 (6) Section 120 (with respect to amounts received under  
4 qualified group legal services plans). For treatment,  
5 see section 235-7(a)(9) to (11);
- 6 (7) Section 122 (with respect to certain reduced uniformed  
7 services retirement pay). For treatment, see section  
8 235-7(a)(3);
- 9 (8) Section 135 (with respect to income from United States  
10 savings bonds used to pay higher education tuition and  
11 fees). For treatment, see section 235-7(a)(1);
- 12 (9) Section 139C (with respect to COBRA premium  
13 assistance);
- 14 (10) Subchapter B (sections 141 to 150) (with respect to  
15 tax exemption requirements for state and local bonds);
- 16 (11) Section 151 (with respect to allowance of deductions  
17 for personal exemptions). For treatment, see section  
18 235-54;
- 19 (12) Section 179B (with respect to expensing of capital  
20 costs incurred in complying with Environmental  
21 Protection Agency sulphur regulations);



- 1 (13) Section 181 (with respect to special rules for certain  
2 film and television productions);
- 3 (14) Section 196 (with respect to deduction for certain  
4 unused investment credits);
- 5 (15) Section 199 (with respect to the U.S. production  
6 activities deduction);
- 7 (16) Section 222 (with respect to qualified tuition and  
8 related expenses);
- 9 (17) Sections 241 to 247 (with respect to special  
10 deductions for corporations). For treatment, see  
11 section 235-7(c);
- 12 (18) Section 280C (with respect to certain expenses for  
13 which credits are allowable). For treatment, see  
14 section 235-110.91;
- 15 (19) Section 291 (with respect to special rules relating to  
16 corporate preference items);
- 17 (20) Section 367 (with respect to foreign corporations);
- 18 (21) Section 501(c)(12), (15), (16) (with respect to exempt  
19 organizations);
- 20 (22) Section 515 (with respect to taxes of foreign  
21 countries and possessions of the United States);



- 1 (23) Subchapter G (sections 531 to 565) (with respect to  
2 corporations used to avoid income tax on  
3 shareholders);
- 4 (24) Subchapter H (sections 581 to 597) (with respect to  
5 banking institutions), except section 584 (with  
6 respect to common trust funds). For treatment, see  
7 chapter 241;
- 8 (25) Section 642(a) and (b) (with respect to special rules  
9 for credits and deductions applicable to trusts). For  
10 treatment, see sections 235-54(b) and 235-55;
- 11 (26) Section 646 (with respect to tax treatment of electing  
12 Alaska Native settlement trusts);
- 13 (27) Section 668 (with respect to interest charge on  
14 accumulation distributions from foreign trusts);
- 15 (28) Subchapter L (sections 801 to 848) (with respect to  
16 insurance companies). For treatment, see sections  
17 431:7-202 and 431:7-204;
- 18 (29) Section 853 (with respect to foreign tax credit  
19 allowed to shareholders). For treatment, see section  
20 235-55;
- 21 (30) Section 853A (with respect to credits from tax credit  
22 bonds allowed to shareholders);





- 1 (31) Subchapter N (sections 861 to 999) (with respect to  
2 tax based on income from sources within or without the  
3 United States), except sections 985 to 989 (with  
4 respect to foreign currency transactions). For  
5 treatment, see sections 235-4, 235-5, and 235-7(b),  
6 and 235-55;
- 7 (32) Section 1042(g) (with respect to sales of stock in  
8 agricultural refiners and processors to eligible farm  
9 cooperatives);
- 10 (33) Section 1055 (with respect to redeemable ground  
11 rents);
- 12 (34) Section 1057 (with respect to election to treat  
13 transfer to foreign trust, etc., as taxable exchange);
- 14 (35) Sections 1291 to 1298 (with respect to treatment of  
15 passive foreign investment companies);
- 16 (36) Subchapter Q (sections 1311 to 1351) (with respect to  
17 readjustment of tax between years and special  
18 limitations);
- 19 (37) Subchapter R (sections 1352 to 1359) (with respect to  
20 election to determine corporate tax on certain  
21 international shipping activities using per ton rate);



- 1 (38) Subchapter U (sections 1391 to 1397F) (with respect to  
2 designation and treatment of empowerment zones,  
3 enterprise communities, and rural development  
4 investment areas). For treatment, see chapter 209E;  
5 (39) Subchapter W (sections 1400 to 1400C) (with respect to  
6 District of Columbia enterprise zone);  
7 (40) Section 14000 (with respect to education tax  
8 benefits);  
9 (41) Section 1400P (with respect to housing tax benefits);  
10 (42) Section 1400R (with respect to employment relief);  
11 (43) Section 1400T (with respect to special rules for  
12 mortgage revenue bonds);  
13 (44) Section 1400U-1 (with respect to allocation of  
14 recovery zone bonds);  
15 (45) Section 1400U-2 (with respect to recovery zone  
16 economic development bonds); and  
17 (46) Section 1400U-3 (with respect to recovery zone  
18 facility bonds)."

19 SECTION 4. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.

21 SECTION 5. This Act, upon its approval, shall apply to  
22 taxable years beginning after December 31, 2010, and shall be



1 repealed on January 1, 2014; provided that section 235-2.3,  
2 Hawaii Revised Statutes, shall be reenacted in the form in which  
3 it read on the day prior to the effective date of this Act; and  
4 provided further that no taxpayer shall be prohibited from  
5 properly claiming a carryover credit in a taxable year beginning  
6 after December 31, 2013, for wages paid or incurred during the  
7 three taxable years beginning after December 31, 2010, and  
8 ending before January 1, 2014, in accordance with section  
9 235- , Hawaii Revised Statutes.



**Report Title:**

Work Opportunity Income Tax Credit; Operative

**Description:**

Makes the work opportunity income tax credit operative for the taxable years beginning after 12/31/2010 and ending before 1/1/2014. (HB801 HD1)

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

