

JAN 26 2011

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# A BILL FOR AN ACT

RELATING TO TAXATION.

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

1                   PART I.   INCOME TAX CREDITS

2           SECTION 1.   Section 235-71, Hawaii Revised Statutes, is  
3 amended to read as follows:

4           "~~§235-71 Tax on corporations; rates[; credit of~~  
5 ~~shareholder of regulated investment company]~~. (a) A tax at the  
6 rates herein provided shall be assessed, levied, collected, and  
7 paid for each taxable year on the taxable income of every  
8 corporation, including a corporation carrying on business in  
9 partnership, except that in the case of a regulated investment  
10 company the tax is as provided by subsection (b) and further  
11 that in the case of a real estate investment trust as defined in  
12 section 856 of the Internal Revenue Code of 1954 the tax is as  
13 provided in subsection (d). "Corporation" includes any  
14 professional corporation incorporated pursuant to chapter 415A.

15           The tax on all taxable income shall be at the rate of 4.4  
16 per cent if the taxable income is not over \$25,000, 5.4 per cent  
17 if over \$25,000 but not over \$100,000, and on all over \$100,000,  
18 6.4 per cent.



1           (b) In the case of a regulated investment company there is  
2 imposed on the taxable income, computed as provided in sections  
3 852 and 855 of the Internal Revenue Code but with the changes  
4 and adjustments made by this chapter (without prejudice to the  
5 generality of the foregoing, the deduction for dividends paid is  
6 limited to such amount of dividends as is attributable to income  
7 taxable under this chapter), a tax consisting in the sum of the  
8 following: 4.4 per cent if the taxable income is not over  
9 \$25,000, 5.4 per cent if over \$25,000 but not over \$100,000, and  
10 on all over \$100,000, 6.4 per cent.

11           ~~[(c) In the case of a shareholder of a regulated~~  
12 ~~investment company there is hereby allowed a credit in the~~  
13 ~~amount of the tax imposed on the amount of capital gains which~~  
14 ~~by section 852(b)(3)(D) of the Internal Revenue Code is required~~  
15 ~~to be included in the shareholder's return and on which there~~  
16 ~~has been paid to the State by the regulated investment company~~  
17 ~~the tax at the rate imposed by subsection (b); the amount of~~  
18 ~~this credit may be applied or refunded as provided in section~~  
19 ~~235-110.~~

20           ~~(d)]~~ (c) In the case of a real estate investment trust  
21 there is imposed on the taxable income, computed as provided in  
22 sections 857 and 858 of the Internal Revenue Code but with the



1 changes and adjustments made by this chapter (without prejudice  
2 to the generality of the foregoing, the deduction for dividends  
3 paid is limited to such amount of dividends as is attributable  
4 to income taxable under this chapter), a tax consisting in the  
5 sum of the following: 4.4 per cent if the taxable income is not  
6 over \$25,000, 5.4 per cent if over \$25,000 but not over  
7 \$100,000, and on all over \$100,000, 6.4 per cent. In addition  
8 to any other penalty provided by law any real estate investment  
9 trust whose tax liability for any taxable year is deemed to be  
10 increased pursuant to section 859(b)(2)(A) or 860(c)(1)(A) after  
11 December 31, 1978, (relating to interest and additions to tax  
12 determined with respect to the amount of the deduction for  
13 deficiency dividends allowed) of the Internal Revenue Code shall  
14 pay a penalty in an amount equal to the amount of interest for  
15 which such trust is liable that is attributable solely to such  
16 increase. The penalty payable under this subsection with  
17 respect to any determination shall not exceed one-half of the  
18 amount of the deduction allowed by section 859(a), or 860(a)  
19 after December 31, 1978, of the Internal Revenue Code for such  
20 taxable year.

21        [~~e~~] (d) Any corporation acting as a business entity in  
22 more than one state and which is required by this chapter to



1 file a return and whose only activities in this State consist of  
2 sales and which does not own or rent real estate or tangible  
3 personal property and whose annual gross sales in or into this  
4 State during the tax year are not in excess of \$100,000 may  
5 elect to report and pay a tax of .5 per cent of such annual  
6 gross sales."

7 SECTION 2. Section 235-5.6, Hawaii Revised Statutes, is  
8 repealed.

9 ~~["§235-5.6] Individual development account contribution~~  
10 ~~tax credit. (a) There shall be allowed to each taxpayer~~  
11 ~~subject to the tax imposed under this chapter, an individual~~  
12 ~~development account contribution tax credit certified under~~  
13 ~~chapter 257 which shall be applied against the taxpayer's net~~  
14 ~~income tax liability, if any, imposed by this chapter for the~~  
15 ~~taxable year in which the credit is properly claimed.~~

16 ~~(b) The individual development account contribution tax~~  
17 ~~credit shall be equal to fifty per cent of the amount~~  
18 ~~contributed by the taxpayer to a fiduciary organization as~~  
19 ~~defined by and in the manner prescribed in chapter 257. If a~~  
20 ~~deduction is taken under section 170 (with respect to charitable~~  
21 ~~contributions and gifts) of the Internal Revenue Code, no tax~~



1 ~~credit shall be allowed for that portion of the contribution for~~  
2 ~~which the deduction was taken.~~

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

12 ~~(d) Application for the credit under this section shall be~~  
13 ~~upon forms provided by the department.~~

14 ~~(e) The credit under this section shall be available for~~  
15 ~~taxable years beginning after December 31, 1999, but shall not~~  
16 ~~be available for taxable years beginning after December 31,~~  
17 ~~2004." ]~~

18 SECTION 3. Section 235-12, Hawaii Revised Statutes, is  
19 repealed.

20 [~~§235-12 Energy conservation; income tax credit.~~ (a)  
21 ~~For taxable years ending before January 1, 1990, except in the~~  
22 ~~case of ice storage systems for taxable years ending before~~



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

19       (1) ~~The tax credit shall be applicable only with respect~~  
20             ~~to solar devices, which are erected and placed in~~  
21             ~~service after December 31, 1974, but before January 1,~~  
22             ~~1990,~~



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

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

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

20       ~~As used in this subsection:~~

21       ~~"Solar or wind energy device" means any new identifiable~~  
22       ~~facility, equipment, apparatus, or the like which makes use of~~



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

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

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

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

19 ~~(1) For wind energy systems that are installed and placed~~  
20 ~~in service after December 31, 1989, but before July 1,~~  
21 ~~2003, the credit shall be twenty per cent of the~~  
22 ~~actual cost,~~





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



1 ~~buildings, the credit shall be in an amount not to~~  
2 ~~exceed twenty per cent or \$400, whichever is less, of~~  
3 ~~the actual cost of the heat pump;~~

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

17 ~~(7) For heat pumps that are installed and placed in~~  
18 ~~service after December 31, 1989, but before July 1,~~  
19 ~~2003, in new and existing hotel, commercial, and~~  
20 ~~industrial facilities, the credit shall be in an~~  
21 ~~amount not to exceed twenty per cent of the actual~~  
22 ~~cost of the heat pump; and~~



1       ~~(8) For ice storage systems that are installed and placed~~  
2           ~~in service after December 31, 1990, but before July 1,~~  
3           ~~2003, the credit shall be in an amount not to exceed~~  
4           ~~fifty per cent of the actual cost of the ice storage~~  
5           ~~system.~~

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

14       ~~If federal energy tax credits similar to any of those~~  
15       ~~provided in paragraphs (1) to (8) are established after June 30,~~  
16       ~~1998, but before July 1, 2003, then the state tax credit~~  
17       ~~provided in the respective paragraph or paragraphs shall be~~  
18       ~~reduced by the amount of the applicable federal energy tax~~  
19       ~~credit.~~

20       ~~(c) Tax credits shall apply only to the actual cost of the~~  
21       ~~solar or wind energy system, heat pump, or ice storage system,~~  
22       ~~including their accessories and installation, and shall not~~



1 ~~include the cost of consumer incentive premiums unrelated to the~~  
2 ~~operation of the system or offered with the sale of the system~~  
3 ~~or heat pump. The tax credit shall be claimed against net~~  
4 ~~income tax liability for the year in which the solar or wind~~  
5 ~~energy system, heat pump, or ice storage system was purchased~~  
6 ~~and placed in use in Hawaii. Tax credits that exceed the~~  
7 ~~taxpayer's income tax liability may be used as credit against~~  
8 ~~the taxpayer's income tax liability in subsequent years until~~  
9 ~~exhausted.~~

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

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

17 ~~"Solar or wind energy system" means any new identifiable~~  
18 ~~facility, equipment, apparatus, or the like that converts solar~~  
19 ~~insolation or wind energy to useful thermal or electrical energy~~  
20 ~~for heating, cooling, or reducing the use of other types of~~  
21 ~~energy dependent upon fossil fuel for their generation.~~



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

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

9       SECTION 4. Section 235-12.5, Hawaii Revised Statutes, is  
10 repealed.

11       ~~["§235-12.5 Renewable energy technologies; income tax~~  
12 ~~credit. (a) When the requirements of subsection (d) are met,~~  
13 ~~each individual or corporate taxpayer that files an individual~~  
14 ~~or corporate net income tax return for a taxable year may claim~~  
15 ~~a tax credit under this section against the Hawaii state~~  
16 ~~individual or corporate net income tax. The tax credit may be~~  
17 ~~claimed for every eligible renewable energy technology system~~  
18 ~~that is installed and placed in service in the State by a~~  
19 ~~taxpayer during the taxable year. The tax credit may be claimed~~  
20 ~~as follows:~~



1       ~~(1) For each solar energy system: thirty five per cent of~~  
2           ~~the actual cost or the cap amount determined in~~  
3           ~~subsection (b), whichever is less; or~~

4       ~~(2) For each wind powered energy system: twenty per cent~~  
5           ~~of the actual cost or the cap amount determined in~~  
6           ~~subsection (b), whichever is less;~~

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

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

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

18       ~~(b) The amount of credit allowed for each eligible~~  
19       ~~renewable energy technology system shall not exceed the~~  
20       ~~applicable cap amount, which is determined as follows:~~



1       ~~(1) If the primary purpose of the solar energy system is~~  
2       ~~to use energy from the sun to heat water for household~~  
3       ~~use, then the cap amounts shall be:~~

4       ~~(A) \$2,250 per system for single family residential~~  
5       ~~property;~~

6       ~~(B) \$350 per unit per system for multi-family~~  
7       ~~residential property; and~~

8       ~~(C) \$250,000 per system for commercial property;~~

9       ~~(2) For all other solar energy systems, the cap amounts~~  
10       ~~shall be:~~

11       ~~(A) \$5,000 per system for single family residential~~  
12       ~~property; provided that if all or a portion of~~  
13       ~~the system is used to fulfill the substitute~~  
14       ~~renewable energy technology requirement pursuant~~  
15       ~~to section 196-6.5(a)(3), the credit shall be~~  
16       ~~reduced by thirty five per cent of the actual~~  
17       ~~system cost or \$2,250, whichever is less;~~

18       ~~(B) \$350 per unit per system for multi-family~~  
19       ~~residential property; and~~

20       ~~(C) \$500,000 per system for commercial property; and~~

21       ~~(3) For all wind powered energy systems, the cap amounts~~  
22       ~~shall be:~~



1           ~~(A) \$1,500 per system for single family residential~~  
2           ~~property; provided that if all or a portion of~~  
3           ~~the system is used to fulfill the substitute~~  
4           ~~renewable energy technology requirement pursuant~~  
5           ~~to section 196-6.5(a)(3), the credit shall be~~  
6           ~~reduced by twenty per cent of the actual system~~  
7           ~~cost or \$1,500, whichever is less;~~

8           ~~(B) \$200 per unit per system for multi family~~  
9           ~~residential property; and~~

10          ~~(C) \$500,000 per system for commercial property.~~

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

12          ~~"Actual cost" means costs related to the renewable energy~~  
13          ~~technology systems under subsection (a), including accessories~~  
14          ~~and installation, but not including the cost of consumer~~  
15          ~~incentive premiums unrelated to the operation of the system or~~  
16          ~~offered with the sale of the system and costs for which another~~  
17          ~~credit is claimed under this chapter.~~

18          ~~"Household use" means any use to which heated water is~~  
19          ~~commonly put in a residential setting, including commercial~~  
20          ~~application of those uses.~~





1       ~~"Renewable energy technology system" means a new system~~  
2 ~~that captures and converts a renewable source of energy, such as~~  
3 ~~solar or wind energy, into:~~

- 4       ~~(1) A usable source of thermal or mechanical energy;~~  
5       ~~(2) Electricity; or~~  
6       ~~(3) Fuel.~~

7       ~~"Solar or wind energy system" means any identifiable~~  
8 ~~facility, equipment, apparatus, or the like that converts solar~~  
9 ~~or wind energy to useful thermal or electrical energy for~~  
10 ~~heating, cooling, or reducing the use of other types of energy~~  
11 ~~that are dependent upon fossil fuel for their generation.~~

12       ~~(d) For taxable years beginning after December 31, 2005,~~  
13 ~~the dollar amount of any utility rebate shall be deducted from~~  
14 ~~the cost of the qualifying system and its installation before~~  
15 ~~applying the state tax credit.~~

16       ~~(e) The director of taxation shall prepare any forms that~~  
17 ~~may be necessary to claim a tax credit under this section,~~  
18 ~~including forms identifying the technology type of each tax~~  
19 ~~credit claimed under this section, whether for solar or wind.~~  
20 ~~The director may also require the taxpayer to furnish reasonable~~  
21 ~~information to ascertain the validity of the claim for credit~~



1 ~~made under this section and may adopt rules necessary to~~  
2 ~~effectuate the purposes of this section pursuant to chapter 91.~~  
3 ~~(f) If the tax credit under this section exceeds the~~  
4 ~~taxpayer's income tax liability, the excess of the credit over~~  
5 ~~liability may be used as a credit against the taxpayer's income~~  
6 ~~tax liability in subsequent years until exhausted, unless~~  
7 ~~otherwise elected by the taxpayer pursuant to subsection (g) or~~  
8 ~~(h). All claims for the tax credit under this section,~~  
9 ~~including amended claims, shall be filed on or before the end of~~  
10 ~~the twelfth month following the close of the taxable year for~~  
11 ~~which the credit may be claimed. Failure to comply with this~~  
12 ~~subsection shall constitute a waiver of the right to claim the~~  
13 ~~credit.~~

14 ~~(g) For solar energy systems, a taxpayer may elect to~~  
15 ~~reduce the eligible credit amount by thirty per cent and if this~~  
16 ~~reduced amount exceeds the amount of income tax payment due from~~  
17 ~~the taxpayer, the excess of the credit amount over payments due~~  
18 ~~shall be refunded to the taxpayer, provided that tax credit~~  
19 ~~amounts properly claimed by a taxpayer who has no income tax~~  
20 ~~liability shall be paid to the taxpayer, and provided further~~  
21 ~~that no refund on account of the tax credit allowed by this~~  
22 ~~section shall be made for amounts less than \$1.~~



1       ~~The election required by this subsection shall be made in a~~  
2 ~~manner prescribed by the director on the taxpayer's return for~~  
3 ~~the taxable year in which the system is installed and placed in~~  
4 ~~service. A separate election may be made for each separate~~  
5 ~~system that generates a credit. An election once made is~~  
6 ~~irrevocable.~~

7       ~~(h) Notwithstanding subsection (g), for any renewable~~  
8 ~~energy technology system, an individual taxpayer may elect to~~  
9 ~~have any excess of the credit over payments due refunded to the~~  
10 ~~taxpayer, if:~~

11       ~~(1) All of the taxpayer's income is exempt from taxation~~  
12       ~~under section 235-7(a)(2) or (3); or~~

13       ~~(2) The taxpayer's adjusted gross income is \$20,000 or~~  
14       ~~less (or \$40,000 or less if filing a tax return as~~  
15       ~~married filing jointly);~~

16 ~~provided that tax credits properly claimed by a taxpayer who has~~  
17 ~~no income tax liability shall be paid to the taxpayer; and~~  
18 ~~provided further that no refund on account of the tax credit~~  
19 ~~allowed by this section shall be made for amounts less than \$1.~~

20       ~~A husband and wife who do not file a joint tax return shall~~  
21 ~~only be entitled to make this election to the extent that they~~



1 ~~would have been entitled to make the election had they filed a~~  
2 ~~joint tax return.~~

3 ~~The election required by this subsection shall be made in a~~  
4 ~~manner prescribed by the director on the taxpayer's return for~~  
5 ~~the taxable year in which the system is installed and placed in~~  
6 ~~service. A separate election may be made for each separate~~  
7 ~~system that generates a credit. An election once made is~~  
8 ~~irrevocable.~~

9 ~~(i) No taxpayer shall be allowed a credit under this~~  
10 ~~section for the portion of the renewable energy technology~~  
11 ~~system required by section 196-6.5 that is installed and placed~~  
12 ~~in service on any newly constructed single family residential~~  
13 ~~property authorized by a building permit issued on or after~~  
14 ~~January 1, 2010.~~

15 ~~(j) To the extent feasible, using existing resources to~~  
16 ~~assist the energy efficiency policy review and evaluation, the~~  
17 ~~department shall assist with data collection on the following~~  
18 ~~for each taxable year:~~

19 ~~(1) The number of renewable energy technology systems that~~  
20 ~~have qualified for a tax credit during the calendar~~  
21 ~~year by:~~

22 ~~(A) Technology type; and~~



1           ~~(B) Taxpayer type (corporate and individual); and~~  
2       ~~(2) The total cost of the tax credit to the State during~~  
3       ~~the taxable year by:~~

4           ~~(A) Technology type; and~~  
5           ~~(B) Taxpayer type.~~

6       ~~(k) This section shall apply to eligible renewable energy~~  
7       ~~technology systems that are installed and placed in service on~~  
8       ~~or after July 1, 2009." ]~~

9       SECTION 5. Section 235-15, Hawaii Revised Statutes, is  
10       repealed.

11       ~~["~~§235-15~~ Tax credits to promote the purchase of child~~  
12       ~~passenger restraint systems. (a) Any taxpayer who files an~~  
13       ~~individual income tax return for a taxable year may claim an~~  
14       ~~income tax credit under this section against the Hawaii state~~  
15       ~~individual net income tax.~~

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



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

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

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

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

20       SECTION 6. Section 235-17, Hawaii Revised Statutes, is  
21 repealed.



1       ~~["§235-17 Motion picture, digital media, and film~~  
2 ~~production income tax credit. (a) Any law to the contrary~~  
3 ~~notwithstanding, there shall be allowed to each taxpayer subject~~  
4 ~~to the taxes imposed by this chapter, an income tax credit which~~  
5 ~~shall be deductible from the taxpayer's net income tax~~  
6 ~~liability, if any, imposed by this chapter for the taxable year~~  
7 ~~in which the credit is properly claimed. The amount of the~~  
8 ~~credit shall be:~~

9       ~~(1) Fifteen per cent of the qualified production costs~~  
10       ~~incurred by a qualified production in any county of~~  
11       ~~the State with a population of over seven hundred~~  
12       ~~thousand; or~~

13       ~~(2) Twenty per cent of the qualified production costs~~  
14       ~~incurred by a qualified production in any county of~~  
15       ~~the State with a population of seven hundred thousand~~  
16       ~~or less.~~

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

21       ~~In the case of a partnership, S corporation, estate, or~~  
22 ~~trust, the tax credit allowable is for qualified production~~



1 ~~costs incurred by the entity for the taxable year. The cost~~  
2 ~~upon which the tax credit is computed shall be determined at the~~  
3 ~~entity level. Distribution and share of credit shall be~~  
4 ~~determined by rule.~~

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

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

12 ~~(b) The credit allowed under this section shall be claimed~~  
13 ~~against the net income tax liability for the taxable year. For~~  
14 ~~the purposes of this section, "net income tax liability" means~~  
15 ~~net income tax liability reduced by all other credits allowed~~  
16 ~~under this chapter.~~

17 ~~(c) If the tax credit under this section exceeds the~~  
18 ~~taxpayer's income tax liability, the excess of credits over~~  
19 ~~liability shall be refunded to the taxpayer; provided that no~~  
20 ~~refunds or payment on account of the tax credits allowed by this~~  
21 ~~section shall be made for amounts less than \$1. All claims,~~  
22 ~~including any amended claims, for tax credits under this section~~





1 ~~shall be filed on or before the end of the twelfth month~~  
2 ~~following the close of the taxable year for which the credit may~~  
3 ~~be claimed. Failure to comply with the foregoing provision~~  
4 ~~shall constitute a waiver of the right to claim the credit.~~

5 ~~(d) To qualify for this tax credit, a production shall:~~

6 ~~(1) Meet the definition of a qualified production~~

7 ~~specified in subsection (1);~~

8 ~~(2) Have qualified production costs totaling at least~~

9 ~~\$200,000;~~

10 ~~(3) Provide the State, at a minimum, a shared card, end-~~

11 ~~title screen credit, where applicable;~~

12 ~~(4) Provide evidence of reasonable efforts to hire local~~

13 ~~talent and crew; and~~

14 ~~(5) Provide evidence of financial or in kind contributions~~

15 ~~or educational or workforce development efforts, in~~

16 ~~partnership with related local industry labor~~

17 ~~organizations, educational institutions, or both,~~

18 ~~toward the furtherance of the local film and~~

19 ~~television and digital media industries.~~

20 ~~(e) On or after July 1, 2006, no qualified production cost~~

21 ~~that has been financed by investments for which a credit was~~



1 ~~claimed by any taxpayer pursuant to section 235-110.9 is~~  
2 ~~eligible for credits under this section.~~

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

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

15 ~~(h) Every taxpayer claiming a tax credit under this~~  
16 ~~section for a qualified production shall, no later than ninety~~  
17 ~~days following the end of each taxable year in which qualified~~  
18 ~~production costs were expended, submit a written, sworn~~  
19 ~~statement to the department of business, economic development,~~  
20 ~~and tourism, identifying:~~



- 1       ~~(1) All qualified production costs as provided by~~
- 2             ~~subsection (a), if any, incurred in the previous~~
- 3             ~~taxable year;~~
- 4       ~~(2) The amount of tax credits claimed pursuant to this~~
- 5             ~~section, if any, in the previous taxable year; and~~
- 6       ~~(3) The number of total hires versus the number of local~~
- 7             ~~hires by category (i.e., department) and by county.~~
- 8       ~~(i) The department of business, economic development, and~~
- 9       ~~tourism shall:~~
- 10       ~~(1) Maintain records of the names of the taxpayers and~~
- 11             ~~qualified productions thereof claiming the tax credits~~
- 12             ~~under subsection (a);~~
- 13       ~~(2) Obtain and total the aggregate amounts of all~~
- 14             ~~qualified production costs per qualified production~~
- 15             ~~and per qualified production per taxable year; and~~
- 16       ~~(3) Provide a letter to the director of taxation~~
- 17             ~~specifying the amount of the tax credit per qualified~~
- 18             ~~production for each taxable year that a tax credit is~~
- 19             ~~claimed and the cumulative amount of the tax credit~~
- 20             ~~for all years claimed.~~

21       ~~Upon each determination required under this subsection, the~~

22       ~~department of business, economic development, and tourism shall~~

1 ~~issue a letter to the taxpayer, regarding the qualified~~  
2 ~~production, specifying the qualified production costs and the~~  
3 ~~tax credit amount qualified for in each taxable year a tax~~  
4 ~~credit is claimed. The taxpayer for each qualified production~~  
5 ~~shall file the letter with the taxpayer's tax return for the~~  
6 ~~qualified production to the department of taxation.~~  
7 ~~Notwithstanding the authority of the department of business,~~  
8 ~~economic development, and tourism under this section, the~~  
9 ~~director of taxation may audit and adjust the tax credit amount~~  
10 ~~to conform to the information filed by the taxpayer.~~

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

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

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

16 ~~"Commercial":~~

17 ~~(1) Means an advertising message that is filmed using~~  
18 ~~film, videotape, or digital media, for dissemination~~  
19 ~~via television broadcast or theatrical distribution;~~

20 ~~(2) Includes a series of advertising messages if all parts~~  
21 ~~are produced at the same time over the course of six~~  
22 ~~consecutive weeks; and~~



1       ~~(3) Does not include an advertising message with~~  
2               ~~Internet only distribution.~~

3       ~~"Digital media" means production methods and platforms~~  
4 ~~directly related to the creation of cinematic imagery and~~  
5 ~~content, specifically using digital means, including but not~~  
6 ~~limited to digital cameras, digital sound equipment, and~~  
7 ~~computers, to be delivered via film, videotape, interactive game~~  
8 ~~platform, or other digital distribution media (excluding~~  
9 ~~Internet only distribution).~~

10       ~~"Post production" means production activities and services~~  
11 ~~conducted after principal photography is completed, including~~  
12 ~~but not limited to editing, film and video transfers,~~  
13 ~~duplication, transcoding, dubbing, subtitling, credits, closed~~  
14 ~~captioning, audio production, special effects (visual and~~  
15 ~~sound), graphics, and animation.~~

16       ~~"Production" means a series of activities that are directly~~  
17 ~~related to the creation of visual and cinematic imagery to be~~  
18 ~~delivered via film, videotape, or digital media and to be sold,~~  
19 ~~distributed, or displayed as entertainment or the advertisement~~  
20 ~~of products for mass public consumption, including but not~~  
21 ~~limited to scripting, casting, set design and construction,~~



1 ~~transportation, videography, photography, sound recording,~~  
2 ~~interactive game design, and post production.~~

3 ~~"Qualified production":~~

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

21 ~~(2) Does not include: daily news; public affairs programs;~~  
22 ~~non-national magazine or talk shows; televised~~



1 ~~sporting events or activities; productions that~~  
2 ~~solicit funds; productions produced primarily for~~  
3 ~~industrial, corporate, institutional, or other private~~  
4 ~~purposes; and productions that include any material or~~  
5 ~~performance prohibited by chapter 712.~~

6 ~~"Qualified production costs" means the costs incurred by a~~  
7 ~~qualified production within the State that are subject to the~~  
8 ~~general excise tax under chapter 237 or income tax under this~~  
9 ~~chapter and that have not been financed by any investments for~~  
10 ~~which a credit was or will be claimed pursuant to section~~  
11 ~~235-110.9. Qualified production costs include but are not~~  
12 ~~limited to:~~

- 13 ~~(1) Costs incurred during preproduction such as location~~  
14 ~~scouting and related services;~~
- 15 ~~(2) Costs of set construction and operations, purchases or~~  
16 ~~rentals of wardrobe, props, accessories, food, office~~  
17 ~~supplies, transportation, equipment, and related~~  
18 ~~services;~~
- 19 ~~(3) Wages or salaries of cast, crew, and musicians;~~
- 20 ~~(4) Costs of photography, sound synchronization, lighting,~~  
21 ~~and related services;~~



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

14       SECTION 7. Section 235-110.51, Hawaii Revised Statutes, is  
15       repealed.

16       ~~[**"§235-110.51 Technology infrastructure renovation tax**~~  
17       ~~**credit.** (a) There shall be allowed to each taxpayer subject to~~  
18       ~~the taxes imposed by this chapter, an income tax credit which~~  
19       ~~shall be deductible from the taxpayer's net income tax~~  
20       ~~liability, if any, imposed by this chapter for the taxable year~~  
21       ~~in which the credit is properly claimed.~~





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

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

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

15       ~~(e) The basis of eligible property for depreciation or~~  
16       ~~accelerated cost recovery system purposes for state income taxes~~  
17       ~~shall be reduced by the amount of credit allowable and claimed.~~  
18       ~~In the alternative, the taxpayer shall treat the amount of the~~  
19       ~~credit allowable and claimed as a taxable income item for the~~  
20       ~~taxable year in which it is properly recognized under the method~~  
21       ~~of accounting used to compute taxable income.~~



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

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

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

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

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

11       ~~"Renovation costs" means costs incurred after December 31,~~  
12 ~~2000, to plan, design, install, construct, and purchase~~  
13 ~~technology enabled infrastructure equipment to provide a~~  
14 ~~commercial building with technology enabled infrastructure.~~

15       ~~"Technology enabled infrastructure" means:~~

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

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



1       ~~(3) Environmental systems to include heating, ventilation,~~  
2             ~~air conditioning, fire detection and suppression, and~~  
3             ~~other life safety systems, and~~

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

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

7       SECTION 8. Section 235-55, Hawaii Revised Statutes, is  
8       repealed.

9       ~~["§235-55 Tax credits for resident taxpayers. (a)~~

10       ~~Whenever an individual or person liable to the taxes imposed~~  
11       ~~upon individuals, who is a resident of the State or who has~~  
12       ~~filed a joint resident return under section 235-93, has become~~  
13       ~~liable for income taxes to a state, or to the District of~~  
14       ~~Columbia, Puerto Rico, or any other territory or possession of~~  
15       ~~the United States, or to a foreign country upon any part of the~~  
16       ~~individual's or person's taxable income for the taxable year,~~  
17       ~~derived or received from sources without the State and taxed~~  
18       ~~under the laws of such other jurisdiction irrespective of the~~  
19       ~~residence or domicile of the recipient, there shall be credited~~  
20       ~~against the tax payable by the individual or person under this~~  
21       ~~chapter the tax so paid by the individual or person to the other~~



1 ~~jurisdiction upon the individual's or person's producing for the~~  
2 ~~department of taxation satisfactory evidence.~~

3 ~~(1) Of such tax payment, and~~

4 ~~(2) That the laws of the other jurisdiction do not allow~~  
5 ~~the individual or person a credit against the taxes~~  
6 ~~imposed by such jurisdiction for the taxes paid or~~  
7 ~~payable under this chapter, or do allow such credit in~~  
8 ~~an amount which has been deducted in computing the~~  
9 ~~amount of credit sought under this section.~~

10 ~~(b) The application of such credit, however:~~

11 ~~(1) Shall not be allowed with respect to any taxable~~  
12 ~~income or any tax which under subchapter N of chapter~~  
13 ~~1 of the Internal Revenue Code of 1954 (which is~~  
14 ~~applicable for federal purposes but not for state~~  
15 ~~purposes) is or may be the subject of an exclusion,~~  
16 ~~exemption, or tax credit, and~~

17 ~~(2) Shall not operate to reduce the tax payable under this~~  
18 ~~chapter to an amount less than that which would have~~  
19 ~~been payable had the taxpayer been taxable only on the~~  
20 ~~income from property owned, personal services~~  
21 ~~performed, trade or business carried on, and other~~  
22 ~~sources in the State.~~



1       ~~(c) If any taxes paid to another jurisdiction for which a~~  
2 ~~taxpayer has been allowed a credit under this section are at any~~  
3 ~~time credited or refunded to the taxpayer, such fact shall be~~  
4 ~~reported by the taxpayer to the department within twenty days~~  
5 ~~after the credit or refund. Failure to make such report shall~~  
6 ~~be deemed failure to make a return and subject to the penalties~~  
7 ~~imposed by law in such cases. A tax equal to the credit allowed~~  
8 ~~for the taxes so credited or refunded shall be due and payable~~  
9 ~~from the taxpayer upon notice and demand from the department.~~  
10 ~~If the amount of such tax is not paid within ten days from the~~  
11 ~~date of the notice and demand, the taxpayer shall be subject to~~  
12 ~~the usual penalties and interest for delinquency in payment.~~

13       ~~(d) Nothing in this section shall be construed to permit a~~  
14 ~~credit against the taxes imposed by this chapter on account of~~  
15 ~~federal income taxes." ]~~

16       SECTION 9. Section 235-55.6, Hawaii Revised Statutes, is  
17 repealed.

18       ~~["§235-55.6 Expenses for household and dependent care~~  
19 ~~services necessary for gainful employment. (a) Allowance of~~  
20 ~~credit.~~

21       ~~(1) In general. For each resident taxpayer, who files an~~  
22 ~~individual income tax return for a taxable year, and~~



1 ~~who is not claimed or is not otherwise eligible to be~~  
2 ~~claimed as a dependent by another taxpayer for federal~~  
3 ~~or Hawaii state individual income tax purposes, who~~  
4 ~~maintains a household which includes as a member one~~  
5 ~~or more qualifying individuals (as defined in~~  
6 ~~subsection (b)(1)), there shall be allowed as a credit~~  
7 ~~against the tax imposed by this chapter for the~~  
8 ~~taxable year an amount equal to the applicable~~  
9 ~~percentage of the employment related expenses (as~~  
10 ~~defined in subsection (b)(2)) paid by such individual~~  
11 ~~during the taxable year. If the tax credit claimed by~~  
12 ~~a resident taxpayer exceeds the amount of income tax~~  
13 ~~payment due from the resident taxpayer, the excess of~~  
14 ~~the credit over payments due shall be refunded to the~~  
15 ~~resident taxpayer; provided that tax credit properly~~  
16 ~~claimed by a resident individual who has no income tax~~  
17 ~~liability shall be paid to the resident individual,~~  
18 ~~and provided further that no refunds or payment on~~  
19 ~~account of the tax credit allowed by this section~~  
20 ~~shall be made for amounts less than \$1.~~

21 ~~(2) Applicable percentage defined. For purposes of~~  
22 ~~paragraph (1), the term "applicable percentage" means~~



1 ~~twenty five per cent reduced (but not below fifteen~~  
2 ~~per cent) by one percentage point of each \$2,000 (or~~  
3 ~~fraction thereof) by which the taxpayer's adjusted~~  
4 ~~gross income for the taxable year exceeds \$22,000.~~

5 ~~(b) Definitions of qualifying individual and employment-~~  
6 ~~related expenses. For purposes of this section:~~

7 ~~(1) Qualifying individual. The term "qualifying~~  
8 ~~individual" means:~~

9 ~~(A) A dependent of the taxpayer who is under the age~~  
10 ~~of thirteen and with respect to whom the taxpayer~~  
11 ~~is entitled to a deduction under section 235-~~  
12 ~~54(a),~~

13 ~~(B) A dependent of the taxpayer who is physically or~~  
14 ~~mentally incapable of caring for oneself, or~~

15 ~~(C) The spouse of the taxpayer, if the spouse is~~  
16 ~~physically or mentally incapable of caring for~~  
17 ~~oneself.~~

18 ~~(2) Employment related expenses.~~

19 ~~(A) In general. The term "employment related~~  
20 ~~expenses" means amounts paid for the following~~  
21 ~~expenses, but only if such expenses are incurred~~  
22 ~~to enable the taxpayer to be gainfully employed~~



1           ~~for any period for which there are one or more~~  
2           ~~qualifying individuals with respect to the~~  
3           ~~taxpayer:~~

- 4           ~~(i) Expenses for household services, and~~
- 5           ~~(ii) Expenses for the care of a qualifying~~  
6           ~~individual.~~

7           ~~Such term shall not include any amount paid for~~  
8           ~~services outside the taxpayer's household at a~~  
9           ~~camp where the qualifying individual stays~~  
10           ~~overnight.~~

11           ~~(B) Exception. Employment related expenses described~~  
12           ~~in subparagraph (A) which are incurred for~~  
13           ~~services outside the taxpayer's household shall~~  
14           ~~be taken into account only if incurred for the~~  
15           ~~care of:~~

- 16           ~~(i) A qualifying individual described in~~  
17           ~~paragraph (1) (A), or~~
- 18           ~~(ii) A qualifying individual (not described in~~  
19           ~~paragraph (1) (A)) who regularly spends at~~  
20           ~~least eight hours each day in the taxpayer's~~  
21           ~~household.~~





1           ~~(C) Dependent care centers. Employment-related~~  
2           ~~expenses described in subparagraph (A) which are~~  
3           ~~incurred for services provided outside the~~  
4           ~~taxpayer's household by a dependent care center~~  
5           ~~(as defined in subparagraph (D)) shall be taken~~  
6           ~~into account only if:~~

7           ~~(i) Such center complies with all applicable~~  
8           ~~laws, rules, and regulations of this State,~~  
9           ~~if the center is located within the~~  
10           ~~jurisdiction of this State; or~~

11           ~~(ii) Such center complies with all applicable~~  
12           ~~laws, rules, and regulations of the~~  
13           ~~jurisdiction in which the center is located,~~  
14           ~~if the center is located outside the State;~~  
15           ~~and~~

16           ~~(iii) The requirements of subparagraph (B) are~~  
17           ~~met.~~

18           ~~(D) Dependent care center defined. For purposes of~~  
19           ~~this paragraph, the term "dependent care center"~~  
20           ~~means any facility which:~~



1                   ~~(i) Provides care for more than six individuals~~  
2                   ~~(other than individuals who reside at the~~  
3                   ~~facility), and~~

4                   ~~(ii) Receives a fee, payment, or grant for~~  
5                   ~~providing services for any of the~~  
6                   ~~individuals (regardless of whether such~~  
7                   ~~facility is operated for profit).~~

8                   ~~(c) Dollar limit on amount creditable. The amount of the~~  
9                   ~~employment-related expenses incurred during any taxable year~~  
10                  ~~which may be taken into account under subsection (a) shall not~~  
11                  ~~exceed:~~

12                  ~~(1) \$2,400 if there is one qualifying individual with~~  
13                  ~~respect to the taxpayer for such taxable year, or~~

14                  ~~(2) \$4,800 if there are two or more qualifying individuals~~  
15                  ~~with respect to the taxpayer for such taxable year.~~

16                  ~~The amount determined under paragraph (1) or (2) (whichever is~~  
17                  ~~applicable) shall be reduced by the aggregate amount excludable~~  
18                  ~~from gross income under section 129 (with respect to dependent~~  
19                  ~~care assistance programs) of the Internal Revenue Code for the~~  
20                  ~~taxable year.~~

21                  ~~(d) Earned income limitation.~~



1       ~~(1) In general. Except as otherwise provided in this~~  
2       ~~subsection, the amount of the employment related~~  
3       ~~expenses incurred during any taxable year which may be~~  
4       ~~taken into account under subsection (a) shall not~~  
5       ~~exceed:~~

6       ~~(A) In the case of an individual who is not married~~  
7       ~~at the close of such year, such individual's~~  
8       ~~earned income for such year, or~~

9       ~~(B) In the case of an individual who is married at~~  
10       ~~the close of such year, the lesser of such~~  
11       ~~individual's earned income or the earned income~~  
12       ~~of the individual's spouse for such year.~~

13       ~~(2) Special rule for spouse who is a student or incapable~~  
14       ~~of caring for oneself. In the case of a spouse who is~~  
15       ~~a student or a qualified individual described in~~  
16       ~~subsection (b) (1) (C), for purposes of paragraph (1),~~  
17       ~~such spouse shall be deemed for each month during~~  
18       ~~which such spouse is a full time student at an~~  
19       ~~educational institution, or is such a qualifying~~  
20       ~~individual, to be gainfully employed and to have~~  
21       ~~earned income of not less than:~~



1           ~~(A) \$200 if subsection (c) (1) applies for the taxable~~  
2           ~~year, or~~

3           ~~(B) \$400 if subsection (c) (2) applies for the taxable~~  
4           ~~year.~~

5           ~~In the case of any husband and wife, this paragraph~~  
6           ~~shall apply with respect to only one spouse for any~~  
7           ~~one month.~~

8           ~~(e) Special rules. For purposes of this section:~~

9           ~~(1) Maintaining household. An individual shall be treated~~  
10           ~~as maintaining a household for any period only if over~~  
11           ~~half the cost of maintaining the household for the~~  
12           ~~period is furnished by the individual (or, if the~~  
13           ~~individual is married during the period, is furnished~~  
14           ~~by the individual and the individual's spouse).~~

15           ~~(2) Married couples must file joint return. If the~~  
16           ~~taxpayer is married at the close of the taxable year,~~  
17           ~~the credit shall be allowed under subsection (a) only~~  
18           ~~if the taxpayer and the taxpayer's spouse file a joint~~  
19           ~~return for the taxable year.~~

20           ~~(3) Marital status. An individual legally separated from~~  
21           ~~the individual's spouse under a decree of divorce or~~



1 ~~of separate maintenance shall not be considered as~~  
2 ~~married.~~

3 ~~(4) Certain married individuals living apart. If:~~

4 ~~(A) An individual who is married and who files a~~  
5 ~~separate return:~~

6 ~~(i) Maintains as the individual's home a~~  
7 ~~household that constitutes for more than~~  
8 ~~one half of the taxable year the principal~~  
9 ~~place of abode of a qualifying individual,~~  
10 ~~and~~

11 ~~(ii) Furnishes over half of the cost of~~  
12 ~~maintaining the household during the taxable~~  
13 ~~year, and~~

14 ~~(B) During the last six months of the taxable year~~  
15 ~~the individual's spouse is not a member of the~~  
16 ~~household,~~

17 ~~the individual shall not be considered as married.~~

18 ~~(5) Special dependency test in case of divorced parents,~~  
19 ~~etc. If:~~

20 ~~(A) Paragraph (2) or (4) of section 152(e) of the~~  
21 ~~Internal Revenue Code of 1986, as amended,~~



1                   ~~applies to any child with respect to any calendar~~  
2                   ~~year, and~~  
3           ~~(B) The child is under age thirteen or is physically~~  
4                   ~~or mentally incompetent of caring for the child's~~  
5                   ~~self,~~  
6           ~~in the case of any taxable year beginning in the~~  
7           ~~calendar year, the child shall be treated as a~~  
8           ~~qualifying individual described in subsection~~  
9           ~~(b) (1) (A) or (B) (whichever is appropriate) with~~  
10           ~~respect to the custodial parent (within the meaning of~~  
11           ~~section 152(e)(1) of the Internal Revenue Code of~~  
12           ~~1986, as amended), and shall not be treated as a~~  
13           ~~qualifying individual with respect to the noncustodial~~  
14           ~~parent.~~  
15       ~~(6) Payments to related individuals. No credit shall be~~  
16           ~~allowed under subsection (a) for any amount paid by~~  
17           ~~the taxpayer to an individual:~~  
18           ~~(A) With respect to whom, for the taxable year, a~~  
19                   ~~deduction under section 151(c) of the Internal~~  
20                   ~~Revenue Code of 1986, as amended (relating to~~  
21                   ~~deduction for personal exemptions for dependents)~~



1           ~~is allowable either to the taxpayer or the~~  
2           ~~taxpayer's spouse, or~~

3       ~~(B) Who is a child of the taxpayer (within the~~  
4       ~~meaning of section 151(c)(3) of the Internal~~  
5       ~~Revenue Code of 1986, as amended) who has not~~  
6       ~~attained the age of nineteen at the close of the~~  
7       ~~taxable year.~~

8       ~~For purposes of this paragraph, the term "taxable~~  
9       ~~year" means the taxable year of the taxpayer in which~~  
10       ~~the service is performed.~~

11       ~~(7) Student. The term "student" means an individual who,~~  
12       ~~during each of five calendar months during the taxable~~  
13       ~~year, is a full-time student at an educational~~  
14       ~~organization.~~

15       ~~(8) Educational organization. The term "educational~~  
16       ~~organization" means a school operated by the~~  
17       ~~department of education under chapter 302A, an~~  
18       ~~educational organization described in section~~  
19       ~~170(b)(1)(A)(ii) of the Internal Revenue Code of 1986,~~  
20       ~~as amended, or a university, college, or community~~  
21       ~~college.~~



1       ~~(9) Identifying information required with respect to~~  
2       ~~service provider. No credit shall be allowed under~~  
3       ~~subsection (a) for any amount paid to any person~~  
4       ~~unless:~~

5       ~~(A) The name, address, taxpayer identification~~  
6       ~~number, and general excise tax license number of~~  
7       ~~the person are included on the return claiming~~  
8       ~~the credit,~~

9       ~~(B) If the person is located outside the State, the~~  
10       ~~name, address, and taxpayer identification~~  
11       ~~number, if any, of the person and a statement~~  
12       ~~indicating that the service provider is located~~  
13       ~~outside the State and that the general excise tax~~  
14       ~~license and, if applicable, the taxpayer~~  
15       ~~identification numbers are not required, or~~

16       ~~(C) If the person is an organization described in~~  
17       ~~section 501(c)(3) of the Internal Revenue Code~~  
18       ~~and exempt from tax under section 501(a) of the~~  
19       ~~Internal Revenue Code, the name and address of~~  
20       ~~the person are included on the return claiming~~  
21       ~~the credit.~~





1 ~~In the case of a failure to provide the information~~  
2 ~~required under the preceding sentence, the preceding~~  
3 ~~sentence shall not apply if it is shown that the~~  
4 ~~taxpayer exercised due diligence in attempting to~~  
5 ~~provide the information so required.~~

6 ~~(f) Rules. The director of taxation shall prescribe such~~  
7 ~~rules under chapter 91 as may be necessary to carry out the~~  
8 ~~purposes of this section." ]~~

9 SECTION 10. Section 235-55.7, Hawaii Revised Statutes, is  
10 repealed.

11 [~~"§235-55.7 Income tax credit for low-income household~~  
12 ~~renters. (a) As used in this section:~~

13 (1) ~~"Adjusted gross income" is defined by section 235-1.~~

14 (2) ~~"Qualified exemption" includes those exemptions~~  
15 ~~permitted under this chapter; provided that a person~~  
16 ~~for whom exemption is claimed has physically resided~~  
17 ~~in the State for more than nine months during the~~  
18 ~~taxable year; and provided that multiple exemption~~  
19 ~~shall not be granted because of deficiencies in~~  
20 ~~vision, hearing, or other disability.~~

21 (3) ~~"Rent" means the amount paid in cash in any taxable~~  
22 ~~year for the occupancy of a dwelling place which is~~



1           ~~used by a resident taxpayer or the resident taxpayer's~~  
2           ~~immediate family as the principal residence in this~~  
3           ~~State. Rent is limited to the amount paid for the~~  
4           ~~occupancy of the dwelling place only, and is exclusive~~  
5           ~~of charges for utilities, parking stalls, storage of~~  
6           ~~goods, yard services, furniture, furnishings, and the~~  
7           ~~like. Rent shall not include any rental claimed as a~~  
8           ~~deduction from gross income or adjusted gross income~~  
9           ~~for income tax purposes, any ground rental paid for~~  
10           ~~use of land only, and any rent allowance or subsidies~~  
11           ~~received.~~

12           ~~(b) Each resident taxpayer who occupies and pays rent for~~  
13           ~~real property within the State as the resident taxpayer's~~  
14           ~~residence or the residence of the resident taxpayer's immediate~~  
15           ~~family which is not partially or wholly exempted from real~~  
16           ~~property tax, who is not eligible to be claimed as a dependent~~  
17           ~~for federal or state income taxes by another, and who files an~~  
18           ~~individual net income tax return for a taxable year, may claim a~~  
19           ~~tax credit under this section against the resident taxpayer's~~  
20           ~~Hawaii state individual net income tax.~~

21           ~~(c) Each taxpayer with an adjusted gross income of less~~  
22           ~~than \$30,000 who has paid more than \$1,000 in rent during the~~



1 ~~taxable year for which the credit is claimed may claim a tax~~  
2 ~~credit of \$50 multiplied by the number of qualified exemptions~~  
3 ~~to which the taxpayer is entitled; provided each taxpayer sixty~~  
4 ~~five years of age or over may claim double the tax credit; and~~  
5 ~~provided that a resident individual who has no income or no~~  
6 ~~income taxable under this chapter may also claim the tax credit~~  
7 ~~as set forth in this section.~~

8 ~~(d) If a rental unit is occupied by two or more~~  
9 ~~individuals, and more than one individual is able to qualify as~~  
10 ~~a claimant, the claim for credit shall be based upon a pro rata~~  
11 ~~share of the rent paid.~~

12 ~~(e) The tax credits shall be deductible from the~~  
13 ~~taxpayer's individual net income tax for the tax year in which~~  
14 ~~the credits are properly claimed; provided that a husband and~~  
15 ~~wife filing separate returns for a taxable year for which a~~  
16 ~~joint return could have been made by them shall claim only the~~  
17 ~~tax credits to which they would have been entitled had a joint~~  
18 ~~return been filed. In the event the allowed tax credits exceed~~  
19 ~~the amount of the income tax payments due from the taxpayer, the~~  
20 ~~excess of credits over payments due shall be refunded to the~~  
21 ~~taxpayer; provided that allowed tax credits properly claimed by~~  
22 ~~an individual who has no income tax liability shall be paid to~~



1 ~~the individual, and provided further that no refunds or payments~~  
2 ~~on account of the tax credits allowed by this section shall be~~  
3 ~~made for amounts less than \$1.~~

4 ~~(f) The director of taxation shall prepare and prescribe~~  
5 ~~the appropriate form or forms to be used herein, may require~~  
6 ~~proof of the claim for tax credits, and may adopt rules pursuant~~  
7 ~~to chapter 91.~~

8 ~~(g) All of the provisions relating to assessments and~~  
9 ~~refunds under this chapter and under section 231-23(c)(1) shall~~  
10 ~~apply to the tax credits hereunder.~~

11 ~~(h) Claims for tax credits under this section, including~~  
12 ~~any amended claims thereof, shall be filed on or before the end~~  
13 ~~of the twelfth month following the taxable year for which the~~  
14 ~~credit may be claimed." ]~~

15 SECTION 11. Section 235-110.2, Hawaii Revised Statutes, is  
16 repealed.

17 [~~§235-110.2 Credit for school repair and maintenance.~~

18 ~~(a) There shall be allowed to each taxpayer licensed under~~  
19 ~~chapter 444, 460J, or 464, who is subject to the tax imposed by~~  
20 ~~this chapter, and does not owe the State delinquent taxes,~~  
21 ~~penalties, or interest, a credit for contributions of in-kind~~  
22 ~~services for the repair and maintenance of public schools~~



1 ~~provided by the licensed taxpayer in Hawaii. The credit shall~~  
2 ~~be deductible from the taxpayer's net income tax liability, if~~  
3 ~~any, imposed by this chapter for the taxable year in which the~~  
4 ~~credit is properly claimed.~~

5 ~~(b) The amount of the credit determined under this section~~  
6 ~~for the taxable year shall be equal to ten per cent of the value~~  
7 ~~of contributions of in kind services to the Hawaii school repair~~  
8 ~~and maintenance fund for that taxable year; provided that the~~  
9 ~~aggregate value of the contributions of in kind services claimed~~  
10 ~~by a taxpayer shall not exceed \$40,000.~~

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

12 ~~"Public schools" has the same meaning as defined in section~~  
13 ~~302A-101.~~

14 ~~"Value of contributions of in kind services" means the fair~~  
15 ~~market value of uncompensated services or labor as determined~~  
16 ~~and certified by the department of accounting and general~~  
17 ~~services.~~

18 ~~(d) The credit allowed under this section shall be claimed~~  
19 ~~against net income tax liability for the taxable year. A tax~~  
20 ~~credit under this section which exceeds the taxpayer's income~~  
21 ~~tax liability may be used as a credit against the taxpayer's~~  
22 ~~income tax liability in subsequent years until exhausted.~~



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

7       ~~(f) The department of education shall maintain records of~~  
8 ~~the names of taxpayers eligible for the credit and the total~~  
9 ~~value of in-kind services contributed for the repair and~~  
10 ~~maintenance of public schools for the taxable year. All~~  
11 ~~contributions shall be verified by the department of education.~~  
12 ~~The department of education shall total all contributions that~~  
13 ~~the department of education certifies. Upon each determination,~~  
14 ~~the department of education shall issue a certificate to the~~  
15 ~~taxpayer certifying:~~

- 16       ~~(1) The amount of the contribution;~~
- 17       ~~(2) That the taxpayer is licensed under chapter 444, 460J,~~  
18       ~~or 464; and~~
- 19       ~~(3) That the taxpayer has obtained a current and valid~~  
20       ~~certificate signed by the director of taxation,~~  
21       ~~showing that the taxpayer does not owe the State any~~  
22       ~~delinquent taxes, penalties, or interest.~~



1       ~~The taxpayer shall file the certificate from the department~~  
2 ~~of education with the taxpayer's tax return with the department~~  
3 ~~of taxation. When the total amount of certified contributions~~  
4 ~~reaches \$2,500,000, the department of education shall~~  
5 ~~immediately discontinue certifying contributions and notify the~~  
6 ~~department of taxation. In no instance shall the total amount~~  
7 ~~of certified contributions exceed \$2,500,000 for each taxable~~  
8 ~~year.~~

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

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

15       SECTION 12. Section 235-110.3, Hawaii Revised Statutes, is  
16 repealed.

17       ~~["§235-110.3 Ethanol facility tax credit. (a) Each year~~  
18 ~~during the credit period, there shall be allowed to each~~  
19 ~~taxpayer subject to the taxes imposed by this chapter, an~~  
20 ~~ethanol facility tax credit that shall be applied to the~~  
21 ~~taxpayer's net income tax liability, if any, imposed by this~~



1 ~~chapter for the taxable year in which the credit is properly~~  
2 ~~claimed.~~

3 ~~For each qualified ethanol production facility, the annual~~  
4 ~~dollar amount of the ethanol facility tax credit during the~~  
5 ~~eight year period shall be equal to thirty per cent of its~~  
6 ~~nameplate capacity if the nameplate capacity is greater than~~  
7 ~~five hundred thousand but less than fifteen million gallons. A~~  
8 ~~taxpayer may claim this credit for each qualifying ethanol~~  
9 ~~facility, provided that:~~

10 ~~(1) The claim for this credit by any taxpayer of a~~  
11 ~~qualifying ethanol production facility shall not~~  
12 ~~exceed one hundred per cent of the total of all~~  
13 ~~investments made by the taxpayer in the qualifying~~  
14 ~~ethanol production facility during the credit period;~~

15 ~~(2) The qualifying ethanol production facility operated at~~  
16 ~~a level of production of at least seventy five per~~  
17 ~~cent of its nameplate capacity on an annualized basis;~~

18 ~~(3) The qualifying ethanol production facility is in~~  
19 ~~production on or before January 1, 2017; and~~

20 ~~(4) No taxpayer that claims the credit under this section~~  
21 ~~shall claim any other tax credit under this chapter~~  
22 ~~for the same taxable year.~~





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

2       ~~"Credit period" means a maximum period of eight years~~  
3 ~~beginning from the first taxable year in which the qualifying~~  
4 ~~ethanol production facility begins production even if actual~~  
5 ~~production is not at seventy five per cent of nameplate~~  
6 ~~capacity.~~

7       ~~"Investment" means a nonrefundable capital expenditure~~  
8 ~~related to the development and construction of any qualifying~~  
9 ~~ethanol production facility, including processing equipment,~~  
10 ~~waste treatment systems, pipelines, and liquid storage tanks at~~  
11 ~~the facility or remote locations, including expansions or~~  
12 ~~modifications. Capital expenditures shall be those direct and~~  
13 ~~certain indirect costs determined in accordance with section~~  
14 ~~263A of the Internal Revenue Code, relating to uniform~~  
15 ~~capitalization costs, but shall not include expenses for~~  
16 ~~compensation paid to officers of the taxpayer, pension and other~~  
17 ~~related costs, rent for land, the costs of repairing and~~  
18 ~~maintaining the equipment or facilities, training of operating~~  
19 ~~personnel, utility costs during construction, property taxes,~~  
20 ~~costs relating to negotiation of commercial agreements not~~  
21 ~~related to development or construction, or service costs that~~  
22 ~~can be identified specifically with a service department or~~



1 ~~function or that directly benefit or are incurred by reason of a~~  
2 ~~service department or function. For the purposes of determining~~  
3 ~~a capital expenditure under this section, the provisions of~~  
4 ~~section 263A of the Internal Revenue Code shall apply as it read~~  
5 ~~on March 1, 2004. For purposes of this section, investment~~  
6 ~~excludes land costs and includes any investment for which the~~  
7 ~~taxpayer is at risk, as that term is used in section 465 of the~~  
8 ~~Internal Revenue Code (with respect to deductions limited to~~  
9 ~~amount at risk).~~

10 ~~"Nameplate capacity" means the qualifying ethanol~~  
11 ~~production facility's production design capacity, in gallons of~~  
12 ~~motor fuel grade ethanol per year.~~

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

15 ~~"Qualifying ethanol production" means ethanol produced from~~  
16 ~~renewable, organic feedstocks, or waste materials, including~~  
17 ~~municipal solid waste. All qualifying production shall be~~  
18 ~~fermented, distilled, gasified, or produced by physical chemical~~  
19 ~~conversion methods such as reformation and catalytic conversion~~  
20 ~~and dehydrated at the facility.~~

21 ~~"Qualifying ethanol production facility" or "facility"~~  
22 ~~means a facility located in Hawaii which produces motor fuel~~



1 ~~grade ethanol meeting the minimum specifications by the American~~  
2 ~~Society of Testing and Materials standard D 4806, as amended.~~

3 ~~(c) In the case of a taxable year in which the cumulative~~  
4 ~~claims for the credit by the taxpayer of a qualifying ethanol~~  
5 ~~production facility exceeds the cumulative investment made in~~  
6 ~~the qualifying ethanol production facility by the taxpayer, only~~  
7 ~~that portion that does not exceed the cumulative investment~~  
8 ~~shall be claimed and allowed.~~

9 ~~(d) The department of business, economic development, and~~  
10 ~~tourism shall:~~

- 11 ~~(1) Maintain records of the total amount of investment~~  
12 ~~made by each taxpayer in a facility;~~
- 13 ~~(2) Verify the amount of the qualifying investment;~~
- 14 ~~(3) Total all qualifying and cumulative investments that~~  
15 ~~the department of business, economic development, and~~  
16 ~~tourism certifies; and~~
- 17 ~~(4) Certify the total amount of the tax credit for each~~  
18 ~~taxable year and the cumulative amount of the tax~~  
19 ~~credit during the credit period.~~

20 ~~Upon each determination, the department of business,~~  
21 ~~economic development, and tourism shall issue a certificate to~~  
22 ~~the taxpayer verifying the qualifying investment amounts, the~~



1 ~~credit amount certified for each taxable year, and the~~  
2 ~~cumulative amount of the tax credit during the credit period.~~  
3 ~~The taxpayer shall file the certificate with the taxpayer's tax~~  
4 ~~return with the department of taxation. Notwithstanding the~~  
5 ~~department of business, economic development, and tourism's~~  
6 ~~certification authority under this section, the director of~~  
7 ~~taxation may audit and adjust certification to conform to the~~  
8 ~~facts.~~

9 ~~If in any year, the annual amount of certified credits~~  
10 ~~reaches \$12,000,000 in the aggregate, the department of~~  
11 ~~business, economic development, and tourism shall immediately~~  
12 ~~discontinue certifying credits and notify the department of~~  
13 ~~taxation. In no instance shall the total amount of certified~~  
14 ~~credits exceed \$12,000,000 per year. Notwithstanding any other~~  
15 ~~law to the contrary, this information shall be available for~~  
16 ~~public inspection and dissemination under chapter 92F.~~

17 ~~(e) If the credit under this section exceeds the~~  
18 ~~taxpayer's income tax liability, the excess of credit over~~  
19 ~~liability shall be refunded to the taxpayer; provided that no~~  
20 ~~refunds or payments on account of the tax credit allowed by this~~  
21 ~~section shall be made for amounts less than \$1. All claims for~~  
22 ~~a credit under this section must be properly filed on or before~~



1 ~~the end of the twelfth month following the close of the taxable~~  
2 ~~year for which the credit may be claimed. Failure to comply~~  
3 ~~with the foregoing provision shall constitute a waiver of the~~  
4 ~~right to claim the credit.~~

5 ~~(f) If a qualifying ethanol production facility or an~~  
6 ~~interest therein is acquired by a taxpayer prior to the~~  
7 ~~expiration of the credit period, the credit allowable under~~  
8 ~~subsection (a) for any period after such acquisition shall be~~  
9 ~~equal to the credit that would have been allowable under~~  
10 ~~subsection (a) to the prior taxpayer had the taxpayer not~~  
11 ~~disposed of the interest. If an interest is disposed of during~~  
12 ~~any year for which the credit is allowable under subsection (a),~~  
13 ~~the credit shall be allowable between the parties on the basis~~  
14 ~~of the number of days during the year the interest was held by~~  
15 ~~each taxpayer. In no case shall the credit allowed under~~  
16 ~~subsection (a) be allowed after the expiration of the credit~~  
17 ~~period.~~

18 ~~(g) Once the total nameplate capacities of qualifying~~  
19 ~~ethanol production facilities built within the State reaches or~~  
20 ~~exceeds a level of forty million gallons per year, credits under~~  
21 ~~this section shall not be allowed for new ethanol production~~  
22 ~~facilities. If a new facility's production capacity would cause~~



1 ~~the statewide ethanol production capacity to exceed forty~~  
2 ~~million gallons per year, only the ethanol production capacity~~  
3 ~~that does not exceed the statewide forty million gallon per year~~  
4 ~~level shall be eligible for the credit.~~

5 ~~(h) Prior to construction of any new qualifying ethanol~~  
6 ~~production facility, the taxpayer shall provide written notice~~  
7 ~~of the taxpayer's intention to begin construction of a~~  
8 ~~qualifying ethanol production facility. The information shall~~  
9 ~~be provided to the department of taxation and the department of~~  
10 ~~business, economic development, and tourism on forms provided by~~  
11 ~~the department of business, economic development, and tourism,~~  
12 ~~and shall include information on the taxpayer, facility~~  
13 ~~location, facility production capacity, anticipated production~~  
14 ~~start date, and the taxpayer's contact information.~~

15 ~~Notwithstanding any other law to the contrary, this information~~  
16 ~~shall be available for public inspection and dissemination under~~  
17 ~~chapter 92F.~~

18 ~~(i) The taxpayer shall provide written notice to the~~  
19 ~~director of taxation and the director of business, economic~~  
20 ~~development, and tourism within thirty days following the start~~  
21 ~~of production. The notice shall include the production start~~  
22 ~~date and expected ethanol fuel production for the next twenty-~~



1 ~~four months. Notwithstanding any other law to the contrary,~~  
2 ~~this information shall be available for public inspection and~~  
3 ~~dissemination under chapter 92F.~~

4 ~~(j) If a qualifying ethanol production facility fails to~~  
5 ~~achieve an average annual production of at least seventy-five~~  
6 ~~per cent of its nameplate capacity for two consecutive years,~~  
7 ~~the stated capacity of that facility may be revised by the~~  
8 ~~director of business, economic development, and tourism to~~  
9 ~~reflect actual production for the purposes of determining~~  
10 ~~statewide production capacity under subsection (g) and allowable~~  
11 ~~credits for that facility under subsection (a). Notwithstanding~~  
12 ~~any other law to the contrary, this information shall be~~  
13 ~~available for public inspection and dissemination under chapter~~  
14 ~~92F.~~

15 ~~(k) Each calendar year during the credit period, the~~  
16 ~~taxpayer shall provide information to the director of business,~~  
17 ~~economic development, and tourism on the number of gallons of~~  
18 ~~ethanol produced and sold during the previous calendar year, how~~  
19 ~~much was sold in Hawaii versus overseas, feedstocks used for~~  
20 ~~ethanol production, the number of employees of the facility, and~~  
21 ~~the projected number of gallons of ethanol production for the~~  
22 ~~succeeding year.~~



1       ~~(l) In the case of a partnership, S corporation, estate,~~  
2 ~~or trust, the tax credit allowable is for every qualifying~~  
3 ~~ethanol production facility. The cost upon which the tax credit~~  
4 ~~is computed shall be determined at the entity level.~~

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

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

12       ~~(1) The number, location, and nameplate capacities of~~  
13 ~~qualifying ethanol production facilities in the State;~~

14       ~~(2) The total number of gallons of ethanol produced and~~  
15 ~~sold during the previous year; and~~

16       ~~(3) The projected number of gallons of ethanol production~~  
17 ~~for the succeeding year.~~

18       ~~(n) The director of taxation shall prepare forms that may~~  
19 ~~be necessary to claim a credit under this section.~~

20 ~~Notwithstanding the department of business, economic~~  
21 ~~development, and tourism's certification authority under this~~  
22 ~~section, the director may audit and adjust certification to~~





1 ~~conform to the facts. The director may also require the~~  
2 ~~taxpayer to furnish information to ascertain the validity of the~~  
3 ~~claim for credit made under this section and may adopt rules~~  
4 ~~necessary to effectuate the purposes of this section pursuant to~~  
5 ~~chapter 91." ]~~

6 SECTION 13. Section 235-110.7, Hawaii Revised Statutes, is  
7 repealed.

8 [~~§235-110.7 Capital goods excise tax credit.~~ (a) ~~There~~  
9 ~~shall be allowed to each taxpayer subject to the tax imposed by~~  
10 ~~this chapter a capital goods excise tax credit which shall be~~  
11 ~~deductible from the taxpayer's net income tax liability, if any,~~  
12 ~~imposed by this chapter for the taxable year in which the credit~~  
13 ~~is properly claimed.~~

14 The amount of the tax credit shall be determined by the  
15 application of the following rates against the cost of the  
16 eligible depreciable tangible personal property used by the  
17 taxpayer in a trade or business and placed in service within  
18 Hawaii after December 31, 1987. For calendar years beginning  
19 after:

20 (1) ~~December 31, 1987, the applicable rate shall be three~~  
21 ~~per cent;~~



1       ~~(2) December 31, 1988, the applicable rate shall be four~~  
2             ~~per cent,~~

3       ~~(3) December 31, 2008, the applicable rate shall be zero~~  
4             ~~per cent, and~~

5       ~~(4) December 31, 2009, and thereafter, the applicable rate~~  
6             ~~shall be four per cent.~~

7       ~~For taxpayers with fiscal taxable years, the applicable~~  
8       ~~rate shall be the rate for the calendar year in which the~~  
9       ~~eligible depreciable tangible personal property used in the~~  
10       ~~trade or business is placed in service within Hawaii.~~

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

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



1 ~~If a deduction is taken under section 179 (with respect to~~  
2 ~~election to expense certain depreciable business assets) of the~~  
3 ~~Internal Revenue Code of 1954, as amended, no tax credit shall~~  
4 ~~be allowed for that portion of the cost of property for which~~  
5 ~~the deduction was taken.~~

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

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

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

20 ~~(d) Sections 47 (with respect to dispositions of section~~  
21 ~~38 property and the recapture percentages) of the Internal~~  
22 ~~Revenue Code of 1954, as amended, as of December 31, 1984, and~~



1 ~~280F as operative for this chapter (with respect to limitation~~  
2 ~~on investment tax credit and depreciation for luxury~~  
3 ~~automobiles; limitation where certain property used for personal~~  
4 ~~purposes) of the Internal Revenue Code of 1954, as amended,~~  
5 ~~shall be operative for purposes of this section.~~

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

13 ~~As used in this section:~~

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

20 ~~"Eligible depreciable tangible personal property" is~~  
21 ~~section 38 property as defined by the operative provisions of~~  
22 ~~section 48 and having a depreciable life under section 167 or~~



1 ~~for which a deduction may be taken under section 168 of the~~  
2 ~~federal Internal Revenue Code of 1954, as amended.~~

3 ~~"Placed in service" means the earliest of the following~~  
4 ~~taxable years:~~

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

6 ~~(A) Taxpayer's depreciation practice, the period for~~  
7 ~~depreciation; or~~

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

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

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

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



1 ~~building or structure or tangible personal property used in a~~  
2 ~~foreign trade zone, as defined under chapter 212.~~"]

3 SECTION 14. Section 235-110.8, Hawaii Revised Statutes, is  
4 repealed.

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

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

19 ~~(c) The low income housing tax credit shall be fifty per~~  
20 ~~cent of the applicable percentage of the qualified basis of each~~  
21 ~~building located in Hawaii. The applicable percentage shall be~~



1 ~~calculated as provided in section 42(b) of the Internal Revenue~~  
2 ~~Code.~~

3 ~~(d) For the purposes of this section, the determination~~  
4 ~~of:~~

5 ~~(1) Qualified basis and qualified low income building~~  
6 ~~shall be made under section 42(c);~~

7 ~~(2) Eligible basis shall be made under section 42(d);~~

8 ~~(3) Qualified low income housing project shall be made~~  
9 ~~under section 42(g);~~

10 ~~(4) Recapture of credit shall be made under section 42(j),~~  
11 ~~except that the tax for the taxable year shall be~~  
12 ~~increased under section 42(j)(1) only with respect to~~  
13 ~~credits that were used to reduce state income taxes;~~

14 ~~(5) Application of at risk rules shall be made under~~  
15 ~~section 42(k);~~

16 ~~of the Internal Revenue Code.~~

17 ~~(e) As provided in section 42(e), rehabilitation~~  
18 ~~expenditures shall be treated as separate new building and their~~  
19 ~~treatment under this section shall be the same as in section~~  
20 ~~42(e). The definitions and special rules relating to credit~~  
21 ~~period in section 42(f) and the definitions and special rules in~~



1 ~~section 42(i) shall be operative for the purposes of this~~  
2 ~~section.~~

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

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

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





1 ~~a credit under this section only if the building or project is a~~  
2 ~~qualified low income housing building or a qualified low income~~  
3 ~~housing project under section 42 of the Internal Revenue Code.~~

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

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

9 SECTION 15. Section 235-110.9, Hawaii Revised Statutes, is  
10 repealed.

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

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

21 ~~(2) In the first year following the year in which the~~  
22 ~~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.~~

20       ~~(c) If the tax credit under this section exceeds the~~  
21 ~~taxpayer's income tax liability for any of the five years that~~  
22 ~~the credit is taken, the excess of the tax credit over liability~~



1 ~~may be used as a credit against the taxpayer's income tax~~  
2 ~~liability in subsequent years until exhausted. Every claim,~~  
3 ~~including amended claims, for a tax credit under this section~~  
4 ~~shall be filed on or before the end of the twelfth month~~  
5 ~~following the close of the taxable year for which the credit may~~  
6 ~~be claimed. Failure to comply with the foregoing provision~~  
7 ~~shall constitute a waiver of the right to claim the credit.~~

8 ~~(d) If at the close of any taxable year in the five year~~  
9 ~~period in subsection (a):~~

10 ~~(1) The business no longer qualifies as a qualified high~~  
11 ~~technology business;~~

12 ~~(2) The business or an interest in the business has been~~  
13 ~~sold by the taxpayer investing in the qualified high~~  
14 ~~technology business; or~~

15 ~~(3) The taxpayer has withdrawn the taxpayer's investment~~  
16 ~~wholly or partially from the qualified high technology~~  
17 ~~business;~~

18 ~~the credit claimed under this section shall be recaptured. The~~  
19 ~~recapture shall be equal to ten per cent of the amount of the~~  
20 ~~total tax credit claimed under this section in the preceding two~~  
21 ~~taxable years. The amount of the credit recaptured shall apply~~  
22 ~~only to the investment in the particular qualified high~~



1 ~~technology business that meets the requirements of paragraph~~  
2 ~~(1), (2), or (3). The recapture provisions of this subsection~~  
3 ~~shall not apply to a tax credit claimed for a qualified high~~  
4 ~~technology business that does not fall within the provisions of~~  
5 ~~paragraph (1), (2), or (3). The amount of the recaptured tax~~  
6 ~~credit determined under this subsection shall be added to the~~  
7 ~~taxpayer's tax liability for the taxable year in which the~~  
8 ~~recapture occurs under this subsection.~~

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

- 13 ~~(1) Qualified investments, if any, expended in the~~  
14 ~~previous taxable year; and~~
- 15 ~~(2) The amount of tax credits claimed pursuant to this~~  
16 ~~section, if any, in the previous taxable year.~~

17 ~~(f) The department shall:~~  
18 ~~(1) Maintain records of the names and addresses of the~~  
19 ~~taxpayers claiming the credits under this section and~~  
20 ~~the total amount of the qualified investment costs~~  
21 ~~upon which the tax credit is based;~~



- 1       ~~(2) Verify the nature and amount of the qualifying~~
- 2           ~~investments;~~
- 3       ~~(3) Total all qualifying and cumulative investments that~~
- 4           ~~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 qualifying~~  
10       ~~investment amounts, the credit amount certified for each taxable~~  
11       ~~year, and the cumulative amount of the tax credit during the~~  
12       ~~credit period. The taxpayer shall file the certificate with the~~  
13       ~~taxpayer's tax return with the department.~~

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

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

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



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

5       ~~(2) The amount of the investment in the qualified high~~  
6           ~~technology business.~~

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

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

15       ~~(2) More than seventy five per cent of its gross income is~~  
16           ~~derived from qualified research; and provided further~~  
17           ~~that this income is received from:~~

18           ~~(A) Products sold from, manufactured in, or produced~~  
19           ~~in this State; or~~

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

21       ~~"Qualified research" means the same as defined in section~~

22       ~~235-7.3.~~



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

8       ~~Transactions for which an investment tax credit allocation~~  
9 ~~ratio greater than 1.5 but not more than 2.0 of credit for every~~  
10 ~~dollar invested and claimed may be reviewed by the department~~  
11 ~~for applicable doctrines of economic substance and business~~  
12 ~~purpose.~~

13       ~~Businesses claiming a tax credit for transactions with~~  
14 ~~investment tax credit allocation ratios greater than 2.0 of~~  
15 ~~credit for every dollar invested shall substantiate economic~~  
16 ~~merit and business purpose consistent with this section.~~

17       ~~(i) For investments made on or after May 1, 2009,~~  
18 ~~notwithstanding any other law to the contrary, no allocations,~~  
19 ~~special or otherwise, of credits under this section may exceed~~  
20 ~~the amount of the investment made by the taxpayer ultimately~~  
21 ~~claiming this credit, and investment tax credit allocation~~  
22 ~~ratios greater than 1.0 of credit for every dollar invested~~



1 ~~shall not be allowed. In addition, the credit shall be allowed~~  
2 ~~only in accordance with subsection (a).~~

3 ~~(j) For investments made on or after May 1, 2009, this~~  
4 ~~section shall be subject to section 235-109.5.~~

5 ~~(k) This section shall not apply to taxable years~~  
6 ~~beginning after December 31, 2010."~~

7 SECTION 16. Section 235-110.46, Hawaii Revised Statutes,  
8 is repealed.

9 ~~["§235-110.46] Attractions and educational facilities tax~~  
10 ~~credit; Ko Olina Resort and Marina; Makaha Resort. (a) There~~  
11 ~~shall be allowed to each qualified taxpayer subject to the taxes~~  
12 ~~imposed by this chapter or chapter 237, 237D, 238, 239, 241, or~~  
13 ~~431, a tax credit [that] may be claimed for taxable years~~  
14 ~~beginning after December 31, 2004, for qualified costs in the~~  
15 ~~development of facilities for attractions and educational~~  
16 ~~purposes at Ko Olina Resort and Marina and at Makaha Resort.~~  
17 ~~The tax credit shall be deductible from the taxpayer's net~~  
18 ~~income tax liability, if any, imposed by this chapter and, at~~  
19 ~~the election of the taxpayer, from the tax liability imposed by~~  
20 ~~chapters 237, 237D, 238, 239, 241, and 431.~~

21 ~~(b) The tax credit earned shall be equal to the qualified~~  
22 ~~costs incurred from June 1, 2003, through May 31, 2009, up to a~~





1 ~~maximum of \$75,000,000 of credits in the aggregate for all~~  
2 ~~qualified taxpayers for all years; provided that notwithstanding~~  
3 ~~the amount of tax credits earned in any year, a maximum of~~  
4 ~~\$7,500,000 of tax credits in the aggregate for all qualified~~  
5 ~~taxpayers may be used in any one taxable year. The credits over~~  
6 ~~\$7,500,000 shall be used as provided in subsection (d). In the~~  
7 ~~case of a partnership, limited liability company, S corporation,~~  
8 ~~estate, trust, or association of apartment owners, the tax~~  
9 ~~credit allowable is for qualified costs incurred by the entity.~~  
10 ~~The costs upon which the tax credit is computed shall be~~  
11 ~~determined at the entity level.~~

12 ~~(c) To qualify for the tax credit, a taxpayer shall:~~

13 ~~(1) Have expended qualified costs on and be developing a~~  
14 ~~world class aquarium and marine science and mammal~~  
15 ~~research facility at Ko Olina Resort and Marina; and~~

16 ~~(2) Dedicate one half of the net operating income of the~~  
17 ~~world class aquarium to the State, beginning on the~~  
18 ~~first day of the seventeenth year following the year~~  
19 ~~in which the attractions and educational facilities~~  
20 ~~credit was first taken; or~~

21 ~~(3) Acquire or own the Makaha Resort, and lease or sell a~~  
22 ~~portion of the Makaha Resort for use as training and~~



1           ~~educational facilities for a period of not less than~~  
2           ~~six years to a taxpayer meeting the requirements of~~  
3           ~~subsection (c) (1).~~

4           ~~(d) If the tax credit under this section exceeds~~  
5           ~~\$7,500,000 in the aggregate for all qualified taxpayers for any~~  
6           ~~taxable year or exceeds the taxpayer's tax liability under this~~  
7           ~~chapter or chapters 237, 237D, 238, 239, 241, and 431 for any~~  
8           ~~year for which the credit is taken, the excess of the tax credit~~  
9           ~~may be used as a credit against the taxpayer's tax liability for~~  
10           ~~the taxes set forth in this section in subsequent years until~~  
11           ~~exhausted; provided that the taxpayer may continue to claim the~~  
12           ~~credit provided in this section if the qualified costs are~~  
13           ~~incurred before June 1, 2009, subject to the monetary ceilings~~  
14           ~~in subsection (b).~~

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

21           ~~(f) If, at any time during the six year period in which~~  
22           ~~tax credits are earned under this section, the costs incurred no~~



1 ~~longer meet the definition of qualified costs, the credits~~  
2 ~~claimed under this section shall be recaptured. The recapture~~  
3 ~~shall be equal to one hundred per cent of the total tax credits~~  
4 ~~claimed under this section for the preceding taxable year;~~  
5 ~~provided that the amount of the credits recaptured shall apply~~  
6 ~~only to those costs that no longer meet the definition of~~  
7 ~~qualified costs. The amount of the recaptured tax credits~~  
8 ~~determined under this subsection shall be added to the~~  
9 ~~taxpayer's tax liability for the taxable year in which the~~  
10 ~~recapture occurs under this subsection.~~

11 ~~(g) If any credit is claimed under this section, then no~~  
12 ~~taxpayer shall claim a credit under any chapter identified in~~  
13 ~~this section for the same qualified costs for which a credit is~~  
14 ~~claimed under this section.~~

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

21 ~~Every qualified taxpayer, no later than March 31 of each~~  
22 ~~year in which qualified costs were expended in the previous~~



1 ~~taxable year, shall submit a written, certified statement to the~~  
2 ~~director of business, economic development, and tourism, in the~~  
3 ~~form specified by the director of business, economic~~  
4 ~~development, and tourism, identifying:~~

5 ~~(1) Qualified costs, if any, expended 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 tax liability under this chapter and chapters 237,~~  
10 ~~237D, 238, 239, 241, and 431 against which the tax~~  
11 ~~credits are claimed.~~

12 ~~Any other law to the contrary notwithstanding, a statement~~  
13 ~~submitted under this subsection shall be a public document.~~

14 ~~(i) The department of business, economic development, and~~  
15 ~~tourism shall maintain records of the names of taxpayers~~  
16 ~~eligible for the credits and the total amount of qualified costs~~  
17 ~~incurred from June 1, 2003, through May 31, 2009. The~~  
18 ~~department of business, economic development, and tourism shall~~  
19 ~~verify all qualified costs and, upon each determination, shall~~  
20 ~~issue a certificate to the taxpayer certifying:~~

21 ~~(1) The amount of the qualified costs; and~~



1       ~~(2) The amount of tax credit that the taxpayer is allowed~~  
2           ~~to use for the taxable year.~~

3       ~~The department of business, economic development, and~~  
4       ~~tourism shall certify no more than \$7,500,000 in credits in the~~  
5       ~~aggregate for all taxpayers for each taxable year, provided that~~  
6       ~~the department may verify qualified costs of no more than~~  
7       ~~\$75,000,000 from June 1, 2003, through May 31, 2009. The~~  
8       ~~taxpayer shall file the certificate with the taxpayer's return~~  
9       ~~with the department of taxation.~~

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

11       ~~"Ko Olina Resort and Marina" means the six hundred forty-~~  
12       ~~two acres reclassified to urban district by Decision and Order~~  
13       ~~entered on September 12, 1985, in Docket A83-562, by the land~~  
14       ~~use commission.~~

15       ~~"Makaha Resort" means the three hundred thirty two acre~~  
16       ~~property identified as tax map keys (1) 8-04-002 parcels 51, 52,~~  
17       ~~53, 54, 55, and 67 and (1) 8-04-029-142.~~

18       ~~"Qualified costs" means any costs for plans, design, and~~  
19       ~~construction, costs for equipment that is permanently affixed to~~  
20       ~~a building or structure, and acquisition of facilities for~~  
21       ~~educational purposes, up to a total of \$75,000,000 in the~~



1 aggregate, incurred after May 31, 2003, and before June 1, 2009,  
2 at either or both of:

3       (1) Ko Olina Resort and Marina for the development of  
4           facilities for attractions and educational purposes,  
5           and for infrastructure within the Ko Olina Resort and  
6           Marina that is directly related to those facilities,  
7           including a world class aquarium, marine science and  
8           mammal research facilities, international sports  
9           training complex, a travel industry management intern  
10          campus, infrastructure for the transfer of ocean  
11          waters to the aquarium or marine mammal facilities, or  
12          both, seawater air conditioning, and other educational  
13          facilities developed or operated in cooperation with  
14          the University of Hawaii or other educational  
15          institutions; or

16       (2) Makaha Resort for the development of a training and  
17          educational facility within a working resort and  
18          hotel;

19 provided that "qualified costs" shall not include land  
20 acquisition costs.

21       "Qualified taxpayer" means a person who fulfills the  
22 requirements of subsection (c)."]



1 SECTION 17. Section 235-110.93, Hawaii Revised Statutes,  
2 is repealed.

3 [~~§235-110.93~~] ~~Important agricultural land qualified~~  
4 ~~agricultural cost tax credit.~~ (a) ~~There shall be allowed to~~  
5 ~~each taxpayer an important agricultural land qualified~~  
6 ~~agricultural cost tax credit that may be claimed in taxable~~  
7 ~~years beginning after the taxable year during which the tax~~  
8 ~~credit under section 235-110.46 is repealed, exhausted, or~~  
9 ~~expired. The credit shall be deductible from the taxpayer's net~~  
10 ~~income tax liability, if any, imposed by this chapter for the~~  
11 ~~taxable year in which the credit is properly claimed. The tax~~  
12 ~~credit amount shall be determined as follows:~~

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

18 (2) ~~In the second year in which the credit is claimed,~~  
19 ~~fifteen per cent of the lesser of the following:~~  
20 (A) ~~The qualified agricultural costs incurred by the~~  
21 ~~taxpayer after July 1, 2008; or~~  
22 (B) ~~\$250,000; and~~



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

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

5           ~~(B) \$125,000.~~

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

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

17       ~~(c) The amount of the qualified agricultural costs~~  
18       ~~eligible to be claimed under this section shall be reduced by~~  
19       ~~the amount of funds received by the taxpayer during the taxable~~  
20       ~~year from the irrigation repair and maintenance special fund~~  
21       ~~under section 167-24.~~





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

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

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

16       ~~(e) If the credit under this section exceeds the~~  
17 ~~taxpayer's net income tax liability for the taxable year, the~~  
18 ~~excess of the credit over liability shall be refunded to the~~  
19 ~~taxpayer; provided that no refunds or payments on account of the~~  
20 ~~credits allowed by this section shall be made for amounts less~~  
21 ~~than \$1.~~



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

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

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

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

13       ~~(3) May adopt rules pursuant to chapter 91 to effectuate~~  
14       ~~this section.~~

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

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

19       ~~(2) Verify the amount of the qualified agricultural costs~~  
20       ~~claimed;~~

21       ~~(3) Total all qualified agricultural costs claimed; and~~



1       ~~(4) Certify the total amount of the tax credit for each~~  
2           ~~taxable year.~~

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

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

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

19       ~~(h) If in any taxable year the annual amount of certified~~  
20       ~~credits reaches \$7,500,000 in the aggregate, the department of~~  
21       ~~agriculture shall immediately discontinue certifying credits and~~  
22       ~~notify the department of taxation. In no instance shall the~~



1 ~~department of agriculture certify a total amount of credits~~  
2 ~~exceeding \$7,500,000 per taxable year. To comply with this~~  
3 ~~restriction, the department of agriculture shall certify credits~~  
4 ~~on a first come, first served basis.~~

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

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

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

20 ~~Notwithstanding any law to the contrary, a statement~~  
21 ~~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 18. Section 235-129, Hawaii Revised Statutes, is  
4 repealed.

5 [~~"§235-129 Tax credits. (a) For purposes of section~~  
6 ~~235-55, each resident shareholder shall be considered to have~~  
7 ~~paid a tax imposed on the shareholder in an amount equal to the~~  
8 ~~shareholder's pro rata share of any net income tax paid by the S~~  
9 ~~corporation to a state that does not measure the income of S~~  
10 ~~corporation shareholders by the income of the S corporation.~~  
11 ~~For purposes of the preceding sentence, the term "net income~~  
12 ~~tax" means any tax imposed on or measured by a corporation's net~~  
13 ~~income.~~

14 ~~(b) Each shareholder of an S corporation shall be allowed~~  
15 ~~a credit against the tax imposed by section 235-51 in an amount~~  
16 ~~equal to the shareholder's pro rata share of the tax credit~~  
17 ~~earned by the S corporation in this State."]~~

18 PART II. INCOME TAX EXEMPTIONS

19 SECTION 19. Section 88-91, Hawaii Revised Statutes, is  
20 repealed.

21 [~~"§88-91 Exemption from taxation and execution. The right~~  
22 ~~of a person to a pension, an annuity or a retirement allowance,~~



1 ~~to the return of contributions, the pension, annuity or~~  
2 ~~retirement allowance itself, any optional benefit or death~~  
3 ~~benefit, any other right accrued or accruing to any person under~~  
4 ~~this part and the moneys in the various funds created under this~~  
5 ~~part are exempted from any tax of the State and, except as in~~  
6 ~~section 88-92 provided, shall not be subject to execution,~~  
7 ~~garnishment or any other process and shall be unassignable~~  
8 ~~except as in this part specifically provided."]~~

9 SECTION 20. Section 235-4.5, Hawaii Revised Statutes, is  
10 repealed.

11 [~~"§235-4.5 Taxation of trusts, beneficiaries, credit. (a)~~  
12 ~~There shall be excluded from gross income any intangible income,~~  
13 ~~such as dividends and interest, earned by a trust sited in this~~  
14 ~~State to the extent that, during the taxable year of the trust,~~  
15 ~~the beneficial interest in the trust shall be held by a~~  
16 ~~beneficiary or beneficiaries residing outside this State. This~~  
17 ~~exclusion shall not apply to income received from real property~~  
18 ~~held in a land trust formed under chapter 558.~~

19 ~~(b) If a trust sited in this State owns one hundred per~~  
20 ~~cent of the stock of a foreign corporation which does not engage~~  
21 ~~in an active trade or business but acts solely as a holding~~  
22 ~~company receiving intangible income, such as dividends and~~



1 ~~interest, the intangible income of the foreign corporation shall~~  
2 ~~be excluded from gross income for Hawaii income tax purposes but~~  
3 ~~only to the extent that the income of the trust beneficiaries is~~  
4 ~~excluded from taxation under subsection (a). As used in this~~  
5 ~~section, foreign corporation means a corporation not created or~~  
6 ~~organized in the United States or under the laws of the United~~  
7 ~~States, Hawaii, or any other state.~~

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

12 SECTION 21. Section 235-7, Hawaii Revised Statutes, is  
13 repealed.

14 [~~"§235-7 Other provisions as to gross income, adjusted~~  
15 ~~gross income, and taxable income. (a) There shall be excluded~~  
16 ~~from gross income, adjusted gross income, and taxable income:~~

17 ~~(1) Income not subject to taxation by the State under the~~  
18 ~~Constitution and laws of the United States;~~

19 ~~(2) Rights, benefits, and other income exempted from~~  
20 ~~taxation by section 88-91, having to do with the state~~  
21 ~~retirement system, and the rights, benefits, and other~~  
22 ~~income, comparable to the rights, benefits, and other~~



- 1 ~~income exempted by section 88-91, under any other~~  
2 ~~public retirement system;~~
- 3 ~~(3) Any compensation received in the form of a pension for~~  
4 ~~past services;~~
- 5 ~~(4) Compensation paid to a patient affected with Hansen's~~  
6 ~~disease employed by the State or the United States in~~  
7 ~~any hospital, settlement, or place for the treatment~~  
8 ~~of Hansen's disease;~~
- 9 ~~(5) Except as otherwise expressly provided, payments made~~  
10 ~~by the United States or this State, under an act of~~  
11 ~~Congress or a law of this State, which by express~~  
12 ~~provision or administrative regulation or~~  
13 ~~interpretation are exempt from both the normal and~~  
14 ~~surtaxes of the United States, even though not so~~  
15 ~~exempted by the Internal Revenue Code itself;~~
- 16 ~~(6) Any income expressly exempted or excluded from the~~  
17 ~~measure of the tax imposed by this chapter by any~~  
18 ~~other law of the State, it being the intent of this~~  
19 ~~chapter not to repeal or supersede any express~~  
20 ~~exemption or exclusion;~~
- 21 ~~(7) Income received by each member of the reserve~~  
22 ~~components of the Army, Navy, Air Force, Marine Corps,~~



1 ~~or Coast Guard of the United States of America, and~~  
2 ~~the Hawaii national guard as compensation for~~  
3 ~~performance of duty, equivalent to pay received for~~  
4 ~~forty eight drills (equivalent of twelve weekends) and~~  
5 ~~fifteen days of annual duty, at an:~~

6 ~~(A) E 1 pay grade after eight years of service,~~  
7 ~~provided that this subparagraph shall apply to~~  
8 ~~taxable years beginning after December 31, 2004;~~

9 ~~(B) E 2 pay grade after eight years of service,~~  
10 ~~provided that this subparagraph shall apply to~~  
11 ~~taxable years beginning after December 31, 2005;~~

12 ~~(C) E 3 pay grade after eight years of service,~~  
13 ~~provided that this subparagraph shall apply to~~  
14 ~~taxable years beginning after December 31, 2006;~~

15 ~~(D) E 4 pay grade after eight years of service,~~  
16 ~~provided that this subparagraph shall apply to~~  
17 ~~taxable years beginning after December 31, 2007;~~

18 ~~and~~

19 ~~(E) E 5 pay grade after eight years of service,~~  
20 ~~provided that this subparagraph shall apply to~~  
21 ~~taxable years beginning after December 31, 2008;~~



- 1       ~~(8) Income derived from the operation of ships or aircraft~~  
2       ~~if the income is exempt under the Internal Revenue~~  
3       ~~Code pursuant to the provisions of an income tax~~  
4       ~~treaty or agreement entered into by and between the~~  
5       ~~United States and a foreign country; provided that the~~  
6       ~~tax laws of the local governments of that country~~  
7       ~~reciprocally exempt from the application of all of~~  
8       ~~their net income taxes, the income derived from the~~  
9       ~~operation of ships or aircraft that are documented or~~  
10       ~~registered under the laws of the United States;~~
- 11       ~~(9) The value of legal services provided by a prepaid~~  
12       ~~legal service plan to a taxpayer, the taxpayer's~~  
13       ~~spouse, and the taxpayer's dependents;~~
- 14       ~~(10) Amounts paid, directly or indirectly, by a prepaid~~  
15       ~~legal service plan to a taxpayer as payment or~~  
16       ~~reimbursement for the provision of legal services to~~  
17       ~~the taxpayer, the taxpayer's spouse, and the~~  
18       ~~taxpayer's dependents;~~
- 19       ~~(11) Contributions by an employer to a prepaid legal~~  
20       ~~service plan for compensation (through insurance or~~  
21       ~~otherwise) to the employer's employees for the costs~~



1           ~~of legal services incurred by the employer's~~  
2           ~~employees, their spouses, and their dependents;~~  
3       ~~(12) Amounts received in the form of a monthly surcharge by~~  
4           ~~a utility acting on behalf of an affected utility~~  
5           ~~under section 269 16.3 shall not be gross income,~~  
6           ~~adjusted gross income, or taxable income for the~~  
7           ~~acting utility under this chapter. Any amounts~~  
8           ~~retained by the acting utility for collection or other~~  
9           ~~costs shall not be included in this exemption; and~~  
10       ~~(13) One hundred per cent of the gain realized by a fee~~  
11           ~~simple owner from the sale of a leased fee interest in~~  
12           ~~units within a condominium project, cooperative~~  
13           ~~project, or planned unit development to the~~  
14           ~~association of owners under chapter 514A or 514B, or~~  
15           ~~the residential cooperative corporation of the~~  
16           ~~leasehold units.~~  
17       ~~For purposes of this paragraph:~~  
18           ~~"Fee simple owner" shall have the same meaning as~~  
19           ~~provided under section 516 1; provided that it shall~~  
20           ~~include legal and equitable owners;~~



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

4           ~~"Condominium project" and "cooperative project"~~  
5           ~~shall have the same meanings as provided under section~~  
6           ~~514C-1.~~

7           ~~(b) There shall be included in gross income, adjusted~~  
8           ~~gross income, and taxable income.~~

9           ~~(1) Unless excluded by this chapter relating to the~~  
10           ~~uniformed services of the United States, cost of~~  
11           ~~living allowances and other payments exempted by~~  
12           ~~section 912 of the Internal Revenue Code, but section~~  
13           ~~119 of the Internal Revenue Code nevertheless shall~~  
14           ~~apply; and~~

15           ~~(2) Unless expressly exempted or excluded as provided by~~  
16           ~~subsection (a)(6), interest on the obligations of a~~  
17           ~~State or a political subdivision thereof.~~

18           ~~(c) The deductions of or based on dividends paid or~~  
19           ~~received, allowed to a corporation under chapter 1, subchapter~~  
20           ~~B, Part VIII of the Internal Revenue Code, shall not be allowed.~~  
21           ~~In lieu thereof there shall be allowed as a deduction the entire~~  
22           ~~amount of dividends received by any corporation upon the shares~~





1 ~~of stock of a national banking association, qualifying~~  
2 ~~dividends, as defined in section 243(b) of the Internal Revenue~~  
3 ~~Code, received by members of an affiliated group, or dividends~~  
4 ~~received by a small business investment company operating under~~  
5 ~~the Small Business Investment Act of 1958 (Public Law 85-699)~~  
6 ~~upon shares of stock qualifying under paragraph (3), seventy per~~  
7 ~~cent of the amount received by any corporation as dividends:~~

8     ~~(1) Upon the shares of stock of another corporation, if at~~  
9     ~~the date of payment of the dividend at least ninety-~~  
10     ~~five per cent of the other corporation's capital stock~~  
11     ~~is owned by one or more corporations doing business in~~  
12     ~~this State and if the other corporation is subjected~~  
13     ~~to an income tax in another jurisdiction (but~~  
14     ~~subjection to federal tax does not constitute~~  
15     ~~subjection to income tax in another jurisdiction); and~~

16     ~~(2) Upon the shares of stock of a bank or insurance~~  
17     ~~company organized and doing business under the laws of~~  
18     ~~the State;~~

19     ~~(3) Upon the shares of stock of another corporation, if at~~  
20     ~~least fifteen per cent of the latter corporation's~~  
21     ~~business, for the taxable year of the latter~~



1           ~~corporation preceding the payment of the dividend, has~~  
2           ~~been attributed to this State.~~

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

20           ~~(d) (1) For taxable years ending before January 1, 1967,~~  
21           ~~the net operating loss deductions allowed as~~  
22           ~~carrybacks and carryovers by the Internal Revenue Code~~



1           ~~shall not be allowed. In lieu thereof the net~~  
2           ~~operating loss deduction shall consist of the excess~~  
3           ~~of the deductions allowed by this chapter over the~~  
4           ~~gross income, computed with the modifications~~  
5           ~~specified in paragraphs (1) to (4) of section 172(d)~~  
6           ~~of the Internal Revenue Code, and with the further~~  
7           ~~modification stated in paragraph (3) hereof; and shall~~  
8           ~~be allowed as a deduction in computing the taxable~~  
9           ~~income of the taxpayer for the succeeding taxable~~  
10          ~~year;~~

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

19          ~~(B) In the case of a taxable year beginning in 1966~~  
20           ~~and ending in 1967, the entire amount of all net~~  
21           ~~operating loss deductions carried back to the~~  
22           ~~taxable year shall be limited to that portion of~~



1 ~~taxable income for such taxable year which the~~  
2 ~~number of days in 1967 bears to the total days in~~  
3 ~~the taxable year ending in 1967; and~~

4 ~~(C) The computation of any net operating loss~~  
5 ~~deduction for a taxable year covered by this~~  
6 ~~subsection shall require the further~~  
7 ~~modifications stated in paragraphs (3), (4), and~~  
8 ~~(5) of this subsection;~~

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

20 ~~(4) No net operating loss carryback or carryover shall be~~  
21 ~~allowed by this chapter if not allowed under section~~  
22 ~~172 of the Internal Revenue Code;~~



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

10       ~~(6) The five year carryback period for net operating~~  
11       ~~losses for any taxable year ending during 2001 and~~  
12       ~~2002 in section 172(b)(1)(H) of the Internal Revenue~~  
13       ~~Code as it read on December 31, 2008, shall not be~~  
14       ~~operative for purposes of this chapter; and~~

15       ~~(7) The election for the carryback for 2008 or 2009 net~~  
16       ~~operating losses of small businesses as provided in~~  
17       ~~section 172(b)(1)(H) of the Internal Revenue Code as~~  
18       ~~it read on December 31, 2009, shall not be operative~~  
19       ~~for purposes of this chapter.~~

20       ~~(e) There shall be disallowed as a deduction the amount of~~  
21       ~~interest paid or accrued within the taxable year on indebtedness~~  
22       ~~incurred or continued, (1) to purchase or carry bonds the~~



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

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

16 SECTION 22. 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 23. Section 235-9, Hawaii Revised Statutes, is  
5 repealed.

6       ~~["§235-9 Exemptions; generally. Except as provided in~~  
7 ~~sections 235-61 to 235-67 relating to withholding and collection~~  
8 ~~of tax at source, and section 235-2.4 relating to "unrelated~~  
9 ~~business taxable income", the following persons and~~  
10 ~~organizations shall not be taxable under this chapter: banks,~~  
11 ~~building and loan associations, financial services loan~~  
12 ~~companies, financial corporations, small business investment~~  
13 ~~companies, trust companies, mortgage loan companies, financial~~  
14 ~~holding companies, subsidiaries of financial holding companies~~  
15 ~~as defined in chapter 241, and development companies taxable~~  
16 ~~under chapter 241; insurance companies, agricultural cooperative~~  
17 ~~associations, and fish marketing associations exclusively~~  
18 ~~taxable under other laws; and persons engaged in the business of~~  
19 ~~motion picture and television film production as defined by the~~  
20 ~~director of taxation."]~~

21       SECTION 24. Section 235-9.5, Hawaii Revised Statutes, is  
22 repealed.



1       ~~["§235-9.5 Stock options from qualified high technology~~  
2 ~~businesses excluded from taxation. (a) Notwithstanding any law~~  
3 ~~to the contrary, all income earned and proceeds derived from~~  
4 ~~stock options or stock, including stock issued through the~~  
5 ~~exercise of stock options or warrants, from a qualified high~~  
6 ~~technology business or from a holding company of a qualified~~  
7 ~~high technology business by an employee, officer, or director of~~  
8 ~~the qualified high technology business, or investor who~~  
9 ~~qualifies for the credit under section 235-110.9, that would~~  
10 ~~otherwise be taxed as ordinary income or as capital gains to~~  
11 ~~those persons shall be excluded from taxation under this~~  
12 ~~chapter.~~

13       ~~Similar provisions shall apply to options to acquire equity~~  
14 ~~interests and to equity interests themselves with regard to~~  
15 ~~entities other than corporations.~~

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

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

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

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

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



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

2 ~~"Income earned and proceeds derived from stock options or~~  
3 ~~stock" includes income from:~~

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

6 ~~(2) The receipt or the exercise of stock options or~~  
7 ~~warrants; or~~

8 ~~(3) The sale of stock options or stock, including stock~~  
9 ~~issued through the exercise of stock options or~~  
10 ~~warrants.~~

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

13 SECTION 25. Section 235-18, Hawaii Revised Statutes, is  
14 repealed.

15 ~~[ "§235-18] Deposit beverage container deposit exemption.~~

16 ~~This chapter shall not apply to amounts received as a deposit~~  
17 ~~beverage container deposit collected under part VIII of chapter~~  
18 ~~342C." ]~~

19 SECTION 26. Section 235-54, Hawaii Revised Statutes, is  
20 repealed.

21 ~~[ "§235-54 Exemptions. (a) In computing the taxable~~  
22 ~~income of any individual, there shall be deducted, in lieu of~~



1 ~~the personal exemptions allowed by the Internal Revenue Code of~~  
2 ~~1986, as amended, and except as provided in subsection (c),~~  
3 ~~personal exemptions computed as follows: Ascertain the number~~  
4 ~~of exemptions which the individual can lawfully claim under the~~  
5 ~~Internal Revenue Code, add an additional exemption for the~~  
6 ~~taxpayer or the taxpayer's spouse who is sixty five years of age~~  
7 ~~or older within the taxable year, and multiply that number by~~  
8 ~~\$1,144, for taxable years beginning after December 31, 1984. A~~  
9 ~~nonresident shall prorate the personal exemptions on account of~~  
10 ~~income from sources outside the State as provided in section~~  
11 ~~235-5. In the case of an individual with respect to whom an~~  
12 ~~exemption under this section is allowable to another taxpayer~~  
13 ~~for a taxable year beginning in the calendar year in which the~~  
14 ~~individual's taxable year begins, the personal exemption amount~~  
15 ~~applicable to such individual under this subsection for such~~  
16 ~~individual's taxable year shall be zero.~~

17 ~~(b) In computing the taxable income of an estate or trust~~  
18 ~~there shall be allowed, in lieu of the deductions allowed under~~  
19 ~~subsection (a), the following:~~

20 ~~(1) An estate shall be allowed a deduction of \$400.~~



1       ~~(2) A trust which, under its governing instrument, is~~  
2           ~~required to distribute all of its income currently~~  
3           ~~shall be allowed a deduction of \$200.~~

4       ~~(3) All other trusts shall be allowed a deduction of \$80.~~

5       ~~(c) The phaseout under section 151(d)(3) of the Internal~~  
6 ~~Revenue Code of 1986, as amended, shall apply to this section;~~  
7 ~~provided that the threshold income amounts under section~~  
8 ~~151(d)(3)(C) of the Internal Revenue Code of 1986, as amended,~~  
9 ~~shall be reduced by twenty five per cent for the purposes of~~  
10 ~~this subsection; provided further that the threshold income~~  
11 ~~amounts under section 151(d)(3)(C) of the Internal Revenue Code~~  
12 ~~of 1986, as amended, used to determine the twenty five per cent~~  
13 ~~reduction under this subsection shall be maintained at the~~  
14 ~~amounts in place on July 1, 2008.~~

15       ~~(d) A blind person, a deaf person, and any person totally~~  
16 ~~disabled, in lieu of the personal exemptions allowed by the~~  
17 ~~Internal Revenue Code, shall be allowed, and there shall be~~  
18 ~~deducted in computing the taxable income of a blind person, a~~  
19 ~~deaf person, or a totally disabled person, instead of the~~  
20 ~~exemptions provided by subsection (a), the amount of \$7,000." ]~~

21       SECTION 27. Section 421-23, Hawaii Revised Statutes, is  
22 repealed.



1           ~~["§421-23 Taxation. To obtain the exemptions from~~  
2 ~~taxation granted by this section or any other law, the~~  
3 ~~association annually shall file with the director of taxation a~~  
4 ~~copy of its report made under section 421-22, and in addition~~  
5 ~~thereto, within ninety days after the close of its fiscal year,~~  
6 ~~shall file with the tax assessor of each district in which there~~  
7 ~~are persons doing business to whom it has paid, during the~~  
8 ~~preceding fiscal year, any proceeds of goods marketed, a report~~  
9 ~~showing the name of each person to whom the proceeds were paid,~~  
10 ~~the total proceeds of sales for which such person is taxable~~  
11 ~~under chapter 237 for the fiscal year, and the rate or rates of~~  
12 ~~such tax applicable thereto or to the several amounts thereof,~~  
13 ~~as the case may be." ]~~

PART III. GENERAL EXCISE TAX EXEMPTIONS

15           SECTION 28. Section 346-369, Hawaii Revised Statutes, is  
16 amended to read as follows:

17           ~~" [†]§346-369 [†] Exemptions. (a) [Any compensation~~  
18 ~~received by a provider agency for services rendered to homeless~~  
19 ~~families or individuals, or in operating or managing a homeless~~  
20 ~~facility authorized by this part, is exempt from taxation under~~  
21 ~~chapter 237.~~



1       ~~(b)~~] Any county mayor may exempt, by executive order,  
2 donors and provider agencies from real property taxes, water and  
3 sewer development fees, rates collected for water supplied to  
4 consumers and for use of sewers, and any other county taxes,  
5 charges, or fees; provided that any county may enact ordinances  
6 to regulate the exemptions granted by this subsection.

7       ~~(e)~~ (b) Any provider agency operating or managing a  
8 homeless facility or any other program for the homeless  
9 authorized by this part is exempt, for purposes of those  
10 facilities or programs, from any requirements contained in part  
11 VIII of chapter 346 and chapters 467 and 521."

12       SECTION 29. Section 373K-2, Hawaii Revised Statutes, is  
13 amended to read as follows:

14       "~~[+]§373K-2[+]~~ **Professional employment organization;**  
15 **employee rights[; ~~payroll cost exemption~~].** (a) Where any  
16 client company uses the services of assigned employees and co-  
17 employs assigned employees with a professional employment  
18 organization, the client company and the professional employment  
19 organization, with respect to the assigned employees, shall not  
20 be exempt from the requirements of any federal, state, or county  
21 law, including labor or employment laws, collective bargaining  
22 rights, anti-discrimination provisions, or other laws with



1 respect to the protection and rights of employees, including  
2 chapters 377 and 378, that would apply to the assigned employees  
3 if the assigned employees were employees of the client company  
4 alone, and were not co-employees of the professional employment  
5 organization.

6       These employee rights shall not be abrogated by any  
7 contract or agreement between the client company and the  
8 professional employment organization, or the professional  
9 employment organization and the assigned employee, which  
10 contains terms or conditions that could not be lawfully  
11 contained in a contract or agreement directly between the client  
12 company and the assigned employee in which no professional  
13 employment organization is involved. Notwithstanding any  
14 statute, local ordinance, executive order, rule, or regulation  
15 to the contrary, where the laws, rights, and protections  
16 referred to in this section define or require a determination of  
17 the "employer", the employer shall be deemed to be the client  
18 company and not the professional employment organization. The  
19 department of labor and industrial relations shall notify the  
20 department of taxation in writing of any violation of this  
21 subsection.





1           (b) The client company shall be deemed to have satisfied  
2 its obligations with respect to any assigned employee under any  
3 applicable law, including, without limitation, workers'  
4 compensation laws including chapter 386, employee insurance  
5 coverage laws including chapters 383, 385, 392, and 393, and tax  
6 withholding and reporting laws, if and to the extent that those  
7 obligations are satisfied by the professional employment  
8 organization acting in its capacity as co-employer of such  
9 assigned employee.

10           ~~[(c) Amounts received by a professional employment~~  
11 ~~organization from a client company in amounts equal to and that~~  
12 ~~are disbursed by the professional employment organization for~~  
13 ~~employee wages, salaries, payroll taxes, insurance premiums, and~~  
14 ~~benefits, including retirement, vacation, sick leave, health~~  
15 ~~benefits, and similar employment benefits with respect to~~  
16 ~~assigned employees at a client company shall not be subject to~~  
17 ~~the general excise tax as provided by section 237-24.75.~~

18           ~~(d) The general excise tax exemption under section~~  
19 ~~237-24.75 shall not apply to the professional employment~~  
20 ~~organization if:~~

21           ~~(1) By or through any contract between the client company~~  
22           ~~and any professional employment organization, or~~



1 otherwise, employees are excluded from any employee  
2 rights or employee benefits required by law to be  
3 provided to employees of the client company by the  
4 client company, or

5 (2) The professional employment organization fails to pay  
6 any tax withholding for assigned employees or any  
7 federal or state taxes for which the professional  
8 employment organization is responsible.] "

9 SECTION 30. Section 237-16.8, Hawaii Revised Statutes, is  
10 repealed.

11 ["~~§237-16.8~~ Exemption of certain convention, conference,  
12 and trade show fees. In addition to any other applicable  
13 exemption provided under this chapter, there shall be exempted  
14 from the measure of taxes imposed by this chapter all of the  
15 value or gross income derived by a fraternal benefit, religious,  
16 charitable, scientific, educational, or other nonprofit  
17 organization under section 501(c) of the Internal Revenue Code  
18 of 1986, as amended, from fees for convention, conference, or  
19 trade show exhibit or display spaces; provided that the gross  
20 proceeds of sales by a vendor through the use of exhibit or  
21 display space at a conference, convention, or trade show shall



1 ~~be subject to the imposition of the general excise tax under~~  
2 ~~section 237-13."~~]

3 SECTION 31. Section 237-23, Hawaii Revised Statutes, is  
4 repealed.

5 [~~"§237-23 Exemptions, persons exempt, applications for~~  
6 ~~exemption.~~ (a) ~~This chapter shall not apply to the following~~  
7 ~~persons:~~

- 8 (1) ~~Public service companies as that term is defined in~~  
9 ~~section 239-2, with respect to the gross income,~~  
10 ~~either actual gross income or gross income estimated~~  
11 ~~and adjusted, that is included in the measure of the~~  
12 ~~tax imposed by chapter 239;~~
- 13 (2) ~~Public utilities owned and operated by the State or~~  
14 ~~any county, or other political subdivision thereof;~~
- 15 (3) ~~Fraternal benefit societies, orders, or associations,~~  
16 ~~operating under the lodge system, or for the exclusive~~  
17 ~~benefit of the members of the fraternity itself,~~  
18 ~~operating under the lodge system, and providing for~~  
19 ~~the payment of death, sick, accident, prepaid legal~~  
20 ~~services, or other benefits to the members of the~~  
21 ~~societies, orders, or associations, and to their~~  
22 ~~dependents;~~



- 1       ~~(4) Corporations, associations, trusts, or societies~~  
2       ~~organized and operated exclusively for religious,~~  
3       ~~charitable, scientific, or educational purposes, as~~  
4       ~~well as that of operating senior citizens housing~~  
5       ~~facilities qualifying for a loan under the laws of the~~  
6       ~~United States as authorized by section 202 of the~~  
7       ~~Housing Act of 1959, as amended, as well as that of~~  
8       ~~operating a prepaid legal services plan, as well as~~  
9       ~~that of operating or managing a homeless facility, or~~  
10       ~~any other program for the homeless authorized under~~  
11       ~~part XVII of chapter 346;~~
- 12       ~~(5) Business leagues, chambers of commerce, boards of~~  
13       ~~trade, civic leagues, agricultural and horticultural~~  
14       ~~organizations, and organizations operated exclusively~~  
15       ~~for the benefit of the community and for the promotion~~  
16       ~~of social welfare that shall include the operation of~~  
17       ~~a prepaid legal service plan, and from which no profit~~  
18       ~~inures to the benefit of any private stockholder or~~  
19       ~~individual;~~
- 20       ~~(6) Hospitals, infirmaries, and sanitararia;~~
- 21       ~~(7) Cooperative associations incorporated under chapter~~  
22       ~~421 or Code section 521 cooperatives which fully meet~~



1           ~~the requirements of section 421-23, except Code~~  
2           ~~section 521 cooperatives need not be organized in~~  
3           ~~Hawaii; provided that:~~

4           ~~(A) The exemption shall apply only to the gross~~  
5           ~~income derived from activities that are pursuant~~  
6           ~~to purposes and powers authorized by chapter 421,~~  
7           ~~except those provisions pertaining to or~~  
8           ~~requiring corporate organization in Hawaii do not~~  
9           ~~apply to Code section 521 cooperatives;~~

10          ~~(B) The exemption shall not relieve any person who~~  
11          ~~receives any proceeds of sale from the~~  
12          ~~association of the duty of returning and paying~~  
13          ~~the tax on the total gross proceeds of the sales~~  
14          ~~on account of which the payment was made, in the~~  
15          ~~same amount and at the same rate as would apply~~  
16          ~~thereto had the sales been made directly by the~~  
17          ~~person, and all those persons shall be so~~  
18          ~~taxable; and~~

19          ~~(C) As used in this paragraph, "section 521~~  
20          ~~cooperatives" mean associations that qualify as a~~  
21          ~~cooperative under section 521 (with respect to~~



- 1                   ~~exemption of farmers' cooperatives from tax) of~~  
2                   ~~the Internal Revenue Code of 1986, as amended,~~
- 3       ~~(8) Persons affected with Hansen's disease and kokuas,~~  
4                   ~~with respect to business within the county of Kalawao;~~
- 5       ~~(9) Corporations, companies, associations, or trusts~~  
6                   ~~organized for the establishment and conduct of~~  
7                   ~~cemeteries no part of the net earnings of which inures~~  
8                   ~~to the financial benefit of any private stockholder or~~  
9                   ~~individual; provided that the exemption shall apply~~  
10                   ~~only to the activities of those persons in the conduct~~  
11                   ~~of cemeteries and shall not apply to any activity the~~  
12                   ~~primary purpose of which is to produce income, even~~  
13                   ~~though the income is to be used for or in the~~  
14                   ~~furtherance of the exempt activities of those persons;~~  
15                   ~~and~~
- 16       ~~(10) Nonprofit shippers associations operating under part~~  
17                   ~~296 of the Civil Aeronautics Board Economic~~  
18                   ~~Regulations.~~
- 19       ~~(b) The exemptions enumerated in subsection (a) (3) to (6)~~  
20       ~~shall apply only:~~
- 21       ~~(1) To those persons who shall have registered with the~~  
22                   ~~department of taxation by filing a written application.~~



1           ~~for registration in such form as the department shall~~  
2           ~~prescribe, shall have paid the registration fee of~~  
3           ~~\$20, and shall have had the exemption allowed by the~~  
4           ~~department or by a court or tribunal of competent~~  
5           ~~jurisdiction upon appeal from any assessment resulting~~  
6           ~~from disallowance of the exemption by the department;~~

7           ~~(2) To activities from which no profit inures to the~~  
8           ~~benefit of any private stockholder or individual,~~  
9           ~~except for death or other benefits to the members of~~  
10           ~~fraternal societies; and~~

11           ~~(3) To the fraternal, religious, charitable, scientific,~~  
12           ~~educational, communal, or social welfare activities of~~  
13           ~~such persons, or to the activities of such hospitals,~~  
14           ~~infirmaries, and sanitarium as such, and not to any~~  
15           ~~activity the primary purpose of which is to produce~~  
16           ~~income even though the income is to be used for or in~~  
17           ~~furtherance of the exempt activities of such persons.~~

18           ~~(c) To obtain allowance of an exemption:~~

19           ~~(1) A person under subsection (a) (3) to (6), who has~~  
20           ~~received or applied for recognition of tax exempt~~  
21           ~~status under section 501(c) (3), (4), (6), or (8) of~~  
22           ~~the Internal Revenue Code of 1986, as amended, or who~~



1           ~~is a subordinate person of a person who has received a~~  
2           ~~group exemption letter under section 501(c) (3), (4),~~  
3           ~~(6), or (8) of the Internal Revenue Code of 1986, as~~  
4           ~~amended, shall register with the department by filing~~  
5           ~~a statement attaching a copy of the exemption or~~  
6           ~~application for recognition of exempt status and any~~  
7           ~~particular facts that the department may require; and~~

8           ~~(2) All other persons under subsection (a) (3) to (6) shall~~  
9           ~~file an application for exemption in the form of an~~  
10           ~~affidavit or affidavits setting forth in general all~~  
11           ~~facts affecting the right to the exemption and such~~  
12           ~~particular facts as the department may require, to~~  
13           ~~which shall be attached such records, papers, and~~  
14           ~~other information as the department may prescribe.~~

15           ~~(d) For all persons, the statement registering the person~~  
16           ~~with the department or application for exemption shall be filed~~  
17           ~~on or before March 31 of the first year of registration or~~  
18           ~~within three months after the commencement of business. In the~~  
19           ~~event of allowance of the exemption, no further statement or~~  
20           ~~application therefor need be filed unless there is a material~~  
21           ~~change in the facts. In the event of disallowance of the~~  
22           ~~exemption, a license may be obtained upon payment of the~~





1 ~~required fee as provided by section 237-9, less the \$20 already~~  
2 ~~paid under this section, which shall be credited thereon. In~~  
3 ~~the event the registrant has a license under this chapter, no~~  
4 ~~further fee shall be required for registration under this~~  
5 ~~section.~~

6 ~~(e) The department for good cause may extend the time for~~  
7 ~~registration or the time for filing an application for~~  
8 ~~exemption." ]~~

9 SECTION 32. Section 237-23.5, Hawaii Revised Statutes, is  
10 repealed.

11 [~~"§237-23.5 Related entities; common paymaster; certain~~  
12 ~~exempt transactions. (a) This chapter shall not apply to~~  
13 ~~amounts received, charged, or attributable to services furnished~~  
14 ~~by one related entity to another related entity or to imputed or~~  
15 ~~stated interest attributable to loans, advances, or use of~~  
16 ~~capital between related entities.~~

17 ~~As used in this subsection:~~

18 ~~"Related entities" means:~~

19 ~~(1) An affiliated group of corporations within the meaning~~  
20 ~~of section 1504 (with respect to affiliated group~~  
21 ~~defined) of the federal Internal Revenue Code of 1986,~~  
22 ~~as amended;~~



1       ~~(2) A controlled group of corporations within the meaning~~  
2       ~~of section 1563 (with respect to definitions and~~  
3       ~~special rules) of the federal Internal Revenue Code of~~  
4       ~~1986, as amended;~~

5       ~~(3) These entities connected through ownership of at least~~  
6       ~~eighty per cent of the total value and at least eighty~~  
7       ~~per cent of the total voting power of each such entity~~  
8       ~~(or combination thereof), including partnerships,~~  
9       ~~associations, trusts, S corporations, nonprofit~~  
10       ~~corporations, limited liability partnerships, or~~  
11       ~~limited liability companies; and~~

12       ~~(4) Any group or combination of the entities described in~~  
13       ~~paragraph (3) constituting a unitary business for~~  
14       ~~income tax purposes;~~

15       ~~whether or not the entity is located within or without the State~~  
16       ~~or licensed under this chapter.~~

17       ~~"Services" means legal and accounting services, the use of~~  
18       ~~computer software and hardware, information technology services,~~  
19       ~~database management, and those managerial and administrative~~  
20       ~~services performed by an employee, officer, partner, trustee,~~  
21       ~~sole proprietor, member, or manager in the person's capacity as~~  
22       ~~an employee, officer, partner, trustee, sole proprietor, member,~~



1 ~~or manager of one of the related entities and shall include~~  
2 ~~overhead costs attributable to those services.~~

3 ~~(b) This chapter shall not apply to amounts received by~~  
4 ~~common paymasters which are disbursed as remuneration to~~  
5 ~~employees of two or more related corporations where the common~~  
6 ~~paymaster is making such remunerations on behalf of such~~  
7 ~~corporations. Such amounts received or disbursed by the common~~  
8 ~~paymaster shall include payments of payroll taxes and employee~~  
9 ~~benefits which the common paymaster is making on behalf of~~  
10 ~~related corporations and which payments are related to the~~  
11 ~~employees being remunerated. The definitions of related~~  
12 ~~corporations, common paymaster, multiple common paymasters, and~~  
13 ~~concurrent employment contained in 26 Code of Federal~~  
14 ~~Regulations, section 31.3121(s) 1(b) are incorporated and made a~~  
15 ~~part of this subsection.~~

16 ~~To the extent not covered by subsection (a), the exemption~~  
17 ~~allowed by this subsection shall not apply to the cost of~~  
18 ~~services, or reimbursements of such cost by one corporation to~~  
19 ~~another corporation, of an employee disbursing the amounts~~  
20 ~~exempted under this subsection. Each related corporation using~~  
21 ~~a common paymaster or multiple common paymaster shall keep~~  
22 ~~separate payroll records and other documentation required to~~



1 ~~prove the existence of concurrent employment. Such records and~~  
2 ~~documents shall be available for inspection by the director of~~  
3 ~~taxation during normal business hours."]~~

4 SECTION 33. Section 237-24, Hawaii Revised Statutes, is  
5 repealed.

6 [~~"§237-24 Amounts not taxable. This chapter shall not~~  
7 ~~apply to the following amounts:~~

- 8 (1) ~~Amounts received under life insurance policies and~~  
9 ~~contracts paid by reason of the death of the insured;~~  
10 (2) ~~Amounts received (other than amounts paid by reason of~~  
11 ~~death of the insured) under life insurance, endowment,~~  
12 ~~or annuity contracts, either during the term or at~~  
13 ~~maturity or upon surrender of the contract;~~  
14 (3) ~~Amounts received under any accident insurance or~~  
15 ~~health insurance policy or contract or under workers'~~  
16 ~~compensation acts or employers' liability acts, as~~  
17 ~~compensation for personal injuries, death, or~~  
18 ~~sickness, including also the amount of any damages or~~  
19 ~~other compensation received, whether as a result of~~  
20 ~~action or by private agreement between the parties on~~  
21 ~~account of the personal injuries, death, or sickness;~~



- 1       ~~(4) The value of all property of every kind and sort~~  
2       ~~acquired by gift, bequest, or devise, and the value of~~  
3       ~~all property acquired by descent or inheritance;~~
- 4       ~~(5) Amounts received by any person as compensatory damages~~  
5       ~~for any tort injury to the person, or to the person's~~  
6       ~~character reputation, or received as compensatory~~  
7       ~~damages for any tort injury to or destruction of~~  
8       ~~property, whether as the result of action or by~~  
9       ~~private agreement between the parties (provided that~~  
10       ~~amounts received as punitive damages for tort injury~~  
11       ~~or breach of contract injury shall be included in~~  
12       ~~gross income);~~
- 13       ~~(6) Amounts received as salaries or wages for services~~  
14       ~~rendered by an employee to an employer;~~
- 15       ~~(7) Amounts received as alimony and other similar payments~~  
16       ~~and settlements;~~
- 17       ~~(8) Amounts collected by distributors as fuel taxes on~~  
18       ~~"liquid fuel" imposed by chapter 243, and the amounts~~  
19       ~~collected by such distributors as a fuel tax imposed~~  
20       ~~by any Act of the Congress of the United States;~~
- 21       ~~(9) Taxes on liquor imposed by chapter 244D on dealers~~  
22       ~~holding permits under that chapter;~~



- 1       ~~(10) The amounts of taxes on cigarettes and tobacco~~  
2       ~~products imposed by chapter 245 on wholesalers or~~  
3       ~~dealers holding licenses under that chapter and~~  
4       ~~selling the products at wholesale;~~
- 5       ~~(11) Federal excise taxes imposed on articles sold at~~  
6       ~~retail and collected from the purchasers thereof and~~  
7       ~~paid to the federal government by the retailer;~~
- 8       ~~(12) The amounts of federal taxes under chapter 37 of the~~  
9       ~~Internal Revenue Code, or similar federal taxes,~~  
10       ~~imposed on sugar manufactured in the State, paid by~~  
11       ~~the manufacturer to the federal government;~~
- 12       ~~(13) An amount up to, but not in excess of, \$2,000 a year~~  
13       ~~of gross income received by any blind, deaf, or~~  
14       ~~totally disabled person engaging, or continuing, in~~  
15       ~~any business, trade, activity, occupation, or calling~~  
16       ~~within the State; a corporation all of whose~~  
17       ~~outstanding shares are owned by an individual or~~  
18       ~~individuals who are blind, deaf, or totally disabled;~~  
19       ~~a general, limited, or limited liability partnership,~~  
20       ~~all of whose partners are blind, deaf, or totally~~  
21       ~~disabled; or a limited liability company, all of whose~~  
22       ~~members are blind, deaf, or totally disabled;~~



- 1       ~~(14) Amounts received by a producer of sugarcane from the~~  
2       ~~manufacturer to whom the producer sells the sugarcane,~~  
3       ~~where:~~
- 4       ~~(A) The producer is an independent cane farmer, so~~  
5       ~~classified by the Secretary of Agriculture under the~~  
6       ~~Sugar Act of 1948 (61 Stat. 922, Chapter 519) as~~  
7       ~~the Act may be amended or supplemented;~~
- 8       ~~(B) The value or gross proceeds of the sale of the~~  
9       ~~sugar, and other products manufactured from the~~  
10       ~~sugarcane, are included in the measure of the tax~~  
11       ~~levied on the manufacturer under section 237-~~  
12       ~~13(1) or (2);~~
- 13       ~~(C) The producer's gross proceeds of sales are~~  
14       ~~dependent upon the actual value of the products~~  
15       ~~manufactured therefrom or the average value of~~  
16       ~~all similar products manufactured by the~~  
17       ~~manufacturer; and~~
- 18       ~~(D) The producer's gross proceeds of sales are~~  
19       ~~reduced by reason of the tax on the value or sale~~  
20       ~~of the manufactured products;~~



- 1       ~~(15) Money paid by the State or eleemosynary child placing~~
- 2           ~~organizations to foster parents for their care of~~
- 3           ~~children in foster homes;~~
- 4       ~~(16) Amounts received by a cooperative housing corporation~~
- 5           ~~from its shareholders in reimbursement of funds paid~~
- 6           ~~by the corporation for lease rental, real property~~
- 7           ~~taxes, and other expenses of operating and maintaining~~
- 8           ~~the cooperative land and improvements; provided that~~
- 9           ~~the cooperative corporation is a corporation:~~
- 10       ~~(A) Having one and only one class of stock~~
- 11           ~~outstanding;~~
- 12       ~~(B) Each of the stockholders of which is entitled~~
- 13           ~~solely by reason of the stockholder's ownership~~
- 14           ~~of stock in the corporation, to occupy for~~
- 15           ~~dwelling purposes a house, or an apartment in a~~
- 16           ~~building owned or leased by the corporation; and~~
- 17       ~~(C) No stockholder of which is entitled (either~~
- 18           ~~conditionally or unconditionally) to receive any~~
- 19           ~~distribution not out of earnings and profits of~~
- 20           ~~the corporation except in a complete or partial~~
- 21           ~~liquidation of the corporation; and~~





1       ~~(17) Amounts received by a managed care support contractor~~  
2       ~~of the TRICARE program that is established under Title~~  
3       ~~10 United States Code chapter 55, as amended, for the~~  
4       ~~actual cost or advancement to third party health care~~  
5       ~~providers pursuant to a contract with the United~~  
6       ~~States." ]~~

7       SECTION 34. Section 237-24.3, Hawaii Revised Statutes, is  
8       repealed.

9       ~~[ "§237-24.3 Additional amounts not taxable. In addition~~  
10      ~~to the amounts not taxable under section 237-24, this chapter~~  
11      ~~shall not apply to:~~

12      ~~(1) Amounts received from the loading, transportation, and~~  
13      ~~unloading of agricultural commodities shipped for a~~  
14      ~~producer or produce dealer on one island of this State~~  
15      ~~to a person, firm, or organization on another island~~  
16      ~~of this State. The terms "agricultural commodity",~~  
17      ~~"producer", and "produce dealer" shall be defined in~~  
18      ~~the same manner as they are defined in section 147-1,~~  
19      ~~provided that agricultural commodities need not have~~  
20      ~~been produced in the State;~~

21      ~~(2) Amounts received from sales of:~~



- 1           ~~(A) Intoxicating liquor as the term "liquor" is~~
- 2           ~~defined in chapter 244D;~~
- 3           ~~(B) Cigarettes and tobacco products as defined in~~
- 4           ~~chapter 245; and~~
- 5           ~~(C) Agricultural, meat, or fish products;~~
- 6           ~~to any person or common carrier in interstate or~~
- 7           ~~foreign commerce, or both, whether ocean going or air,~~
- 8           ~~for consumption out of state on the shipper's vessels~~
- 9           ~~or airplanes;~~
- 10          ~~(3) Amounts received by the manager, submanager, or board~~
- 11          ~~of directors of:~~
- 12           ~~(A) An association of owners of a condominium~~
- 13           ~~property regime established in accordance with~~
- 14           ~~chapter 514A or 514B; or~~
- 15           ~~(B) A nonprofit homeowners or community association~~
- 16           ~~incorporated in accordance with chapter 414D or~~
- 17           ~~any predecessor thereto and existing pursuant to~~
- 18           ~~covenants running with the land,~~
- 19           ~~in reimbursement of sums paid for common expenses;~~
- 20          ~~(4) Amounts received or accrued from:~~
- 21           ~~(A) The loading or unloading of cargo from ships,~~
- 22           ~~barges, vessels, or aircraft, whether or not the~~



1                   ~~ships, barges, vessels, or aircraft travel~~  
2                   ~~between the State and other states or countries~~  
3                   ~~or between the islands of the State;~~

4           ~~(B) Tugboat services including pilotage fees~~  
5                   ~~performed within the State, and the towage of~~  
6                   ~~ships, barges, or vessels in and out of state~~  
7                   ~~harbors, or from one pier to another; and~~

8           ~~(C) The transportation of pilots or governmental~~  
9                   ~~officials to ships, barges, or vessels offshore;~~  
10                  ~~rigging gear; checking freight and similar~~  
11                  ~~services; standby charges; and use of moorings~~  
12                  ~~and running mooring lines;~~

13           ~~(5) Amounts received by an employee benefit plan by way of~~  
14                  ~~contributions, dividends, interest, and other income;~~  
15                  ~~and amounts received by a nonprofit organization or~~  
16                  ~~office, as payments for costs and expenses incurred~~  
17                  ~~for the administration of an employee benefit plan;~~  
18                  ~~provided that this exemption shall not apply to any~~  
19                  ~~gross rental income or gross rental proceeds received~~  
20                  ~~after June 30, 1994, as income from investments in~~  
21                  ~~real property in this State; and provided further that~~  
22                  ~~gross rental income or gross rental proceeds from~~



1 ~~investments in real property received by an employee~~  
2 ~~benefit plan after June 30, 1994, under written~~  
3 ~~contracts executed prior to July 1, 1994, shall not be~~  
4 ~~taxed until the contracts are renegotiated, renewed,~~  
5 ~~or extended, or until after December 31, 1998,~~  
6 ~~whichever is earlier. For the purposes of this~~  
7 ~~paragraph, "employee benefit plan" means any plan as~~  
8 ~~defined in section 1002(3) of title 29 of the United~~  
9 ~~States Code, as amended;~~

10 ~~(6) Amounts received for purchases made with United States~~  
11 ~~Department of Agriculture food coupons under the~~  
12 ~~federal food stamp program, and amounts received for~~  
13 ~~purchases made with United States Department of~~  
14 ~~Agriculture food vouchers under the Special~~  
15 ~~Supplemental Foods Program for Women, Infants and~~  
16 ~~Children;~~

17 ~~(7) Amounts received by a hospital, infirmary, medical~~  
18 ~~clinic, health care facility, pharmacy, or a~~  
19 ~~practitioner licensed to administer the drug to an~~  
20 ~~individual for selling prescription drugs or~~  
21 ~~prosthetic devices to an individual, provided that~~  
22 ~~this paragraph shall not apply to any amounts received~~



1           ~~for services provided in selling prescription drugs or~~  
2           ~~prosthetic devices. As used in this paragraph:~~

3                   ~~"Prescription drugs" are those drugs defined~~  
4           ~~under section 328-1 and dispensed by filling or~~  
5           ~~refilling a written or oral prescription by a~~  
6           ~~practitioner licensed under law to administer the drug~~  
7           ~~and sold by a licensed pharmacist under section 328-16~~  
8           ~~or practitioners licensed to administer drugs; and~~

9                   ~~"Prosthetic device" means any artificial device~~  
10          ~~or appliance, instrument, apparatus, or contrivance,~~  
11          ~~including their components, parts, accessories, and~~  
12          ~~replacements thereof, used to replace a missing or~~  
13          ~~surgically removed part of the human body, which is~~  
14          ~~prescribed by a licensed practitioner of medicine,~~  
15          ~~osteopathy, or podiatry and which is sold by the~~  
16          ~~practitioner or which is dispensed and sold by a~~  
17          ~~dealer of prosthetic devices; provided that~~  
18          ~~"prosthetic device" shall not mean any auditory,~~  
19          ~~ophthalmic, dental, or ocular device or appliance,~~  
20          ~~instrument, apparatus, or contrivance;~~



- 1       ~~(8) Taxes on transient accommodations imposed by chapter~~  
2           ~~237D and passed on and collected by operators holding~~  
3           ~~certificates of registration under that chapter;~~
- 4       ~~(9) Amounts received as dues by an unincorporated~~  
5           ~~merchants association from its membership for~~  
6           ~~advertising media, promotional, and advertising costs~~  
7           ~~for the promotion of the association for the benefit~~  
8           ~~of its members as a whole and not for the benefit of~~  
9           ~~an individual member or group of members less than the~~  
10          ~~entire membership;~~
- 11       ~~(10) Amounts received by a labor organization for real~~  
12           ~~property leased to:~~
- 13           ~~(A) A labor organization; or~~
- 14           ~~(B) A trust fund established by a labor organization~~  
15           ~~for the benefit of its members, families, and~~  
16           ~~dependents for medical or hospital care, pensions~~  
17           ~~on retirement or death of employees,~~  
18           ~~apprenticeship and training, and other membership~~  
19           ~~service programs.~~
- 20       ~~As used in this paragraph, "labor organization" means~~  
21       ~~a labor organization exempt from federal income tax~~



1 under section 501(c)(5) of the Internal Revenue Code,  
2 as amended,

3 ~~(11) Amounts received from foreign diplomats and consular~~  
4 ~~officials who are holding cards issued or authorized~~  
5 ~~by the United States Department of State granting them~~  
6 ~~an exemption from state taxes; and~~

7 ~~(12) Amounts received as rent for the rental or leasing of~~  
8 ~~aircraft or aircraft engines used by the lessees or~~  
9 ~~renters for interstate air transportation of~~  
10 ~~passengers and goods. For purposes of this paragraph,~~  
11 ~~payments made pursuant to a lease shall be considered~~  
12 ~~rent regardless of whether the lease is an operating~~  
13 ~~lease or a financing lease. The definition of~~  
14 ~~"interstate air transportation" is the same as in 49~~  
15 ~~U.S.C. 40102." ]~~

16 SECTION 35. Section 237-24.5, Hawaii Revised Statutes, is  
17 repealed.

18 [~~§237-24.5 Additional exemptions. (a) In addition to~~  
19 ~~the amounts exempt under section 237-24, this chapter shall not~~  
20 ~~apply to amounts received by:~~

21 ~~(1) An exchange from:~~



- 1           ~~(A) Transaction fees charged exchange members by the~~
- 2           ~~exchange for:~~
- 3           ~~(i) The sale or purchase of securities or~~
- 4           ~~products, or both, bought or sold on an~~
- 5           ~~exchange by exchange members for their own~~
- 6           ~~account or an account for which they have~~
- 7           ~~responsibility as an agent, broker, or~~
- 8           ~~fiduciary;~~
- 9           ~~(ii) Order book executions made for purposes of~~
- 10           ~~effecting transactions; and~~
- 11           ~~(iii) Trade processing performed by an exchange in~~
- 12           ~~matching trades, keypunching, record~~
- 13           ~~keeping, post cashiering, and notarization;~~
- 14           ~~(B) Membership dues, fees, charges, assessments, and~~
- 15           ~~finer from individuals or firms, including~~
- 16           ~~charges for firm symbols (member identification),~~
- 17           ~~application processing, registration, initiation,~~
- 18           ~~membership transfers, floor or post privileges,~~
- 19           ~~transaction time extensions, expediting~~
- 20           ~~transactions, crossover trades (trading out of~~
- 21           ~~assigned functions) and rule infractions;~~





- 1           ~~(C) Service fees charged to members including fees~~
- 2           ~~for communications, badges, forms, documents, and~~
- 3           ~~reports;~~
- 4           ~~(D) Listing fees and listing maintenance fees charged~~
- 5           ~~to companies that wish to be listed and have~~
- 6           ~~their securities or products traded on the~~
- 7           ~~exchange; and~~
- 8           ~~(E) Participation in the communication network~~
- 9           ~~consortium operated collectively by United States~~
- 10           ~~exchanges or other markets recognized by the~~
- 11           ~~Securities and Exchange Commission, the~~
- 12           ~~Commodities Futures Trading Commission, or~~
- 13           ~~similar regulatory authorities outside the United~~
- 14           ~~States that provides last sale and quote~~
- 15           ~~securities information to subscribers or that~~
- 16           ~~connects such markets or exchanges for purposes~~
- 17           ~~of data transmission;~~
- 18           ~~(2) Exchange members by reason of executing a securities~~
- 19           ~~or product transaction on an exchange; provided that~~
- 20           ~~this exemption shall apply only to amounts received by~~
- 21           ~~exchange members from brokers or dealers registered~~
- 22           ~~with the Securities and Exchange Commission, from~~

1 ~~futures commission merchants, brokers, or associates~~  
2 ~~registered with the Commodities Futures Trading~~  
3 ~~Commission, or from similar individuals or firms~~  
4 ~~registered with similar regulatory authorities outside~~  
5 ~~the United States; and~~

6 ~~(3) Exchange members as proceeds from the sale of their~~  
7 ~~exchange memberships.~~

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

9 ~~"Exchange" means an exchange or board of trade as defined~~  
10 ~~in 15 United States Code section 78c(a)(1) or in 7 United States~~  
11 ~~Code section 7, respectively, which is subject to regulation by~~  
12 ~~the Securities and Exchange Commission or the Commodities~~  
13 ~~Futures Trading Commission or an organization subject to similar~~  
14 ~~regulation under the laws of a jurisdiction outside the United~~  
15 ~~States.~~

16 ~~"Exchange member" means an individual or firm that is~~  
17 ~~qualified by an exchange as a member and pays membership dues to~~  
18 ~~an exchange in order to trade securities or products on an~~  
19 ~~exchange.~~

20 ~~"Securities" means securities as defined in 15 United~~  
21 ~~States Code section 78c and "products" means contracts of sale~~  
22 ~~of commodities for future delivery, futures contracts, options,~~



1 ~~calls, puts, and similar rights as defined in 7 United States~~  
2 ~~Code section 2, which securities or products are permitted to be~~  
3 ~~traded on an exchange." ]~~

4 SECTION 36. Section 237-24.7, Hawaii Revised Statutes, is  
5 repealed.

6 [~~"§237-24.7 Additional amounts not taxable. In addition to~~  
7 ~~the amounts not taxable under section 237-24, this chapter shall~~  
8 ~~not apply to:~~

9 (1) ~~Amounts received by the operator of a hotel from the~~  
10 ~~owner of the hotel or from a time share association,~~  
11 ~~and amounts received by the suboperator of a hotel~~  
12 ~~from the owner of the hotel, from a time share~~  
13 ~~association, or from the operator of the hotel, in~~  
14 ~~amounts equal to and which are disbursed by the~~  
15 ~~operator or suboperator for employee wages, salaries,~~  
16 ~~payroll taxes, insurance premiums, and benefits,~~  
17 ~~including retirement, vacation, sick pay, and health~~  
18 ~~benefits. As used in this paragraph:~~

19 "Employee" ~~means employees directly engaged in~~  
20 ~~the day to day operation of the hotel and employed by~~  
21 ~~the operator or suboperator.~~



1           ~~"Hotel" means an operation as defined in section~~  
2           ~~445-90 or a time share plan as defined in section~~  
3           ~~514E-1.~~

4           ~~"Operator" means any person who, pursuant to a~~  
5           ~~written contract with the owner of a hotel or time~~  
6           ~~share association, operates or manages the hotel for~~  
7           ~~the owner or time share association.~~

8           ~~"Owner" means the fee owner or lessee under a~~  
9           ~~recorded lease of a hotel.~~

10           ~~"Suboperator" means any person who, pursuant to a~~  
11           ~~written contract with the operator, operates or~~  
12           ~~manages the hotel as a subcontractor of the operator.~~

13           ~~"Time share association" means an "association"~~  
14           ~~as that term is defined in section 514E-1;~~

15           ~~(2) Amounts received by the operator of a county~~  
16           ~~transportation system operated under an operating~~  
17           ~~contract with a political subdivision, where the~~  
18           ~~political subdivision is the owner of the county~~  
19           ~~transportation system. As used in this paragraph:~~

20           ~~"County transportation system" means a mass~~  
21           ~~transit system of motorized buses providing regularly~~  
22           ~~scheduled transportation within a county.~~



1           ~~"Operating contract" or "contract" means a~~  
2           ~~contract to operate and manage a political~~  
3           ~~subdivision's county transportation system, which~~  
4           ~~provides that:~~

5           ~~(A) The political subdivision shall exercise~~  
6           ~~substantial control over all aspects of the~~  
7           ~~operator's operation;~~

8           ~~(B) The political subdivision controls the~~  
9           ~~development of transit policy, service~~  
10           ~~planning, routes, and fares; and~~

11           ~~(C) The operator develops in advance a draft~~  
12           ~~budget in the same format as prescribed for~~  
13           ~~agencies of the political subdivision. The~~  
14           ~~budget must be subject to the same~~  
15           ~~constraints and controls regarding the~~  
16           ~~lawful expenditure of public funds as any~~  
17           ~~public sector agency, and deviations from~~  
18           ~~the budget must be subject to approval by~~  
19           ~~the appropriate political subdivision~~  
20           ~~officials involved in the budgetary process.~~



1           ~~"Operator" means any person who, pursuant to an~~  
2           ~~operating contract with a political subdivision,~~  
3           ~~operates or manages a county transportation system.~~

4           ~~"Owner" means a political subdivision that owns~~  
5           ~~or is the lessee of all the properties and facilities~~  
6           ~~of the county transportation system (including buses,~~  
7           ~~real estate, parking garages, fuel pumps, maintenance~~  
8           ~~equipment, office supplies, etc.), and that owns all~~  
9           ~~revenues derived therefrom;~~

10       ~~(3) Surcharge taxes on rental motor vehicles imposed by~~  
11       ~~chapter 251 and passed on and collected by persons~~  
12       ~~holding certificates of registration under that~~  
13       ~~chapter;~~

14       ~~(4) Amounts received by the operator of orchard properties~~  
15       ~~from the owner of the orchard property in amounts~~  
16       ~~equal to and which are disbursed by the operator for~~  
17       ~~employee wages, salaries, payroll taxes, insurance~~  
18       ~~premiums, and benefits, including retirement,~~  
19       ~~vacation, sick pay, and health benefits. As used in~~  
20       ~~this paragraph:~~



1           ~~"Employee" means an employee directly engaged in~~  
2           ~~the day to day operations of the orchard properties~~  
3           ~~and employed by the operator.~~

4           ~~"Operator" means a producer who, pursuant to a~~  
5           ~~written contract with the owner of the orchard~~  
6           ~~property, operates or manages the orchard property for~~  
7           ~~the owner where the property contains an area~~  
8           ~~sufficient to make the undertaking economically~~  
9           ~~feasible.~~

10           ~~"Orchard property" means any real property that~~  
11           ~~is used to raise trees with a production life cycle of~~  
12           ~~fifteen years or more producing fruits or nuts having~~  
13           ~~a normal period of development from the initial~~  
14           ~~planting to the first commercially saleable harvest of~~  
15           ~~not less than three years.~~

16           ~~"Owner" means a fee owner or lessee under a~~  
17           ~~recorded lease of orchard property;~~

18           ~~(5) Taxes on nursing facility income imposed by chapter~~  
19           ~~346E and passed on and collected by operators of~~  
20           ~~nursing facilities;~~

21           ~~(6) Amounts received under property and casualty insurance~~  
22           ~~policies for damage or loss of inventory used in the~~



1 ~~conduct of a trade or business located within the~~  
2 ~~State or a portion thereof that is declared a natural~~  
3 ~~disaster area by the governor pursuant to section 209-~~  
4 ~~27~~

5 ~~(7) Amounts received as compensation by community~~  
6 ~~organizations, school booster clubs, and nonprofit~~  
7 ~~organizations under a contract with the chief election~~  
8 ~~officer for the provision and compensation of precinct~~  
9 ~~officials and other election related personnel,~~  
10 ~~services, and activities, pursuant to section 11-57~~

11 ~~(8) Interest received by a person domiciled outside the~~  
12 ~~State from a trust company (as defined in section~~  
13 ~~412:8-101) acting as payment agent or trustee on~~  
14 ~~behalf of the issuer or payees of an interest bearing~~  
15 ~~instrument or obligation, if the interest would not~~  
16 ~~have been subject to tax under this chapter if paid~~  
17 ~~directly to the person domiciled outside the State~~  
18 ~~without the use of a paying agent or trustee, provided~~  
19 ~~that if the interest would otherwise be taxable under~~  
20 ~~this chapter if paid directly to the person domiciled~~  
21 ~~outside the State, it shall not be exempt solely~~





1 ~~because of the use of a Hawaii trust company as a~~  
2 ~~paying agent or trustee,~~

3 ~~(9) Amounts received by a management company from related~~  
4 ~~entities engaged in the business of selling interstate~~  
5 ~~or foreign common carrier telecommunications services~~  
6 ~~in amounts equal to and which are disbursed by the~~  
7 ~~management company for employee wages, salaries,~~  
8 ~~payroll taxes, insurance premiums, and benefits,~~  
9 ~~including retirement, vacation, sick pay, and health~~  
10 ~~benefits. As used in this paragraph:~~

11 ~~"Employee" means employees directly engaged in~~  
12 ~~the day to day operation of related entities engaged~~  
13 ~~in the business of selling interstate or foreign~~  
14 ~~common carrier telecommunications services and~~  
15 ~~employed by the management company.~~

16 ~~"Management company" means any person who,~~  
17 ~~pursuant to a written contract with a related entity~~  
18 ~~engaged in the business of selling interstate or~~  
19 ~~foreign common carrier telecommunications services,~~  
20 ~~provides managerial or operational services to that~~  
21 ~~entity.~~

22 ~~"Related entities" means:~~



- 1           ~~(A) An affiliated group of corporations within~~  
2           ~~the meaning of section 1504 (with respect to~~  
3           ~~affiliated group defined) of the federal~~  
4           ~~Internal Revenue Code of 1986, as amended;~~
- 5           ~~(B) A controlled group of corporations within~~  
6           ~~the meaning of section 1563 (with respect to~~  
7           ~~definitions and special rules) of the~~  
8           ~~federal Internal Revenue Code of 1986, as~~  
9           ~~amended;~~
- 10          ~~(C) Those entities connected through ownership~~  
11          ~~of at least eighty per cent of the total~~  
12          ~~value and at least eighty per cent of the~~  
13          ~~total voting power of each such entity (or~~  
14          ~~combination thereof), including~~  
15          ~~partnerships, associations, trusts, S~~  
16          ~~corporations, nonprofit corporations,~~  
17          ~~limited liability partnerships, or limited~~  
18          ~~liability companies; and~~
- 19          ~~(D) Any group or combination of the entities~~  
20          ~~described in paragraph (C) constituting a~~  
21          ~~unitary business for income tax purposes;~~



1           ~~whether or not the entity is located within or without~~  
2           ~~the State or licensed under this chapter; and~~  
3       ~~(10) Amounts received as grants under section 206M-15."~~]

4           SECTION 37. Section 237-24.75, Hawaii Revised Statutes, is  
5       repealed.

6           ~~["§237-24.75 Additional exemptions. In addition to the~~  
7       ~~amounts exempt under section 237-24, this chapter shall not~~  
8       ~~apply to:~~

9           ~~(1) Amounts received as a beverage container deposit~~  
10          ~~collected under chapter 342G, part VIII;~~

11          ~~(2) Amounts received by the operator of the Hawaii~~  
12          ~~convention center for reimbursement of costs or~~  
13          ~~advances made pursuant to a contract with the Hawaii~~  
14          ~~tourism authority under section 201B-7[; and]~~

15          ~~[(3) Amounts received] by a professional employment~~  
16          ~~organization from a client company equal to amounts~~  
17          ~~that are disbursed by the professional employment~~  
18          ~~organization for employee wages, salaries, payroll~~  
19          ~~taxes, insurance premiums, and benefits, including~~  
20          ~~retirement, vacation, sick leave, health benefits, and~~  
21          ~~similar employment benefits with respect to assigned~~  
22          ~~employees at a client company, provided that this~~



1 ~~exemption shall not apply to a professional employment~~  
2 ~~organization upon failure of the professional~~  
3 ~~employment organization to collect, account for, and~~  
4 ~~pay over any income tax withholding for assigned~~  
5 ~~employees or any federal or state taxes for which the~~  
6 ~~professional employment organization is responsible.~~  
7 ~~As used in this paragraph, "professional employment~~  
8 ~~organization", "client company", and "assigned~~  
9 ~~employee" shall have the meanings provided in section~~  
10 ~~373K-1."~~]

11 SECTION 38. Section 237-24.8, Hawaii Revised Statutes, is  
12 repealed.

13 [~~"§237-24.8 Amounts not taxable for financial~~  
14 ~~institutions.~~ (a) ~~In addition to the amounts not taxable under~~  
15 ~~section 237-24, this chapter shall not apply to amounts received~~  
16 ~~by:~~

17 (1) ~~Financial institutions from:~~

18 (A) ~~Interest, discount, points, commitment fees, loan~~  
19 ~~fees, loan origination charges, and finance~~  
20 ~~charges which are part of the computed annual~~  
21 ~~percentage rate of interest and which are~~  
22 ~~contracted and received for the use of money;~~



- 1           ~~(B) Leasing of personal property;~~
- 2           ~~(C) Fees or charges relating to the administration of~~
- 3           ~~deposits;~~
- 4           ~~(D) Gains resulting from changes in foreign currency~~
- 5           ~~exchange rates but not including commissions or~~
- 6           ~~compensation derived from the purchase or sale of~~
- 7           ~~foreign currency or numismatic currency whether~~
- 8           ~~legal tender or not;~~
- 9           ~~(E) The servicing and sale of loans contracted for~~
- 10           ~~and received by the financial institution; and~~
- 11           ~~(F) Interest received from the investment of deposits~~
- 12           ~~received by the financial institution from~~
- 13           ~~financial or debt instruments;~~
- 14       ~~(2) Trust companies or trust departments of financial~~
- 15       ~~institutions from:~~
- 16           ~~(A) Trust agreements and retirement plans where the~~
- 17           ~~trust companies or trust departments are acting~~
- 18           ~~as fiduciaries;~~
- 19           ~~(B) Custodial agreements; and~~
- 20           ~~(C) Activities relating to the general servicing of~~
- 21           ~~fiduciary/custodial accounts held by the trust~~
- 22           ~~companies or trust departments; and~~



1       ~~(3) Financial corporations acting as interbank brokers as~~  
2           ~~defined by chapter 241 from brokerage services.~~

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

4           ~~"Activities relating to the general servicing of fiduciary~~  
5       ~~or custodial accounts" means those activities performed by trust~~  
6       ~~companies which are directly or indirectly performed within the~~  
7       ~~fiduciary or custodial relationship between the trust company or~~  
8       ~~trust department of a financial institution and its client and~~  
9       ~~which are not offered to any person outside of the fiduciary or~~  
10       ~~custodial relationship.~~

11       ~~"Annual percentage rate" and "finance charge" have the same~~  
12       ~~meaning as defined in the federal Truth in Lending Act (15~~  
13       ~~United States Code sections 1605(a) to (c) and 1606).~~

14       ~~"Deposit" means:~~

15       ~~(1) Money or its equivalent received or held by a~~  
16           ~~financial institution in the usual course of business~~  
17           ~~and for which it has given or is obligated to give~~  
18           ~~credit to:~~

19           ~~(A) A commercial (including public deposits),~~  
20           ~~checking, savings, time, or thrift account;~~

21           ~~(B) A check or draft drawn against a deposit account~~  
22           ~~and certified by the financial institution;~~



- 1           ~~(C) A letter of credit, or~~
- 2           ~~(D) A traveler's check, on which the financial~~
- 3                 ~~institution is primarily liable,~~
- 4       ~~(2) Trust funds received or held by a financial~~
- 5           ~~institution, whether held in the trust department or~~
- 6           ~~held or deposited in any other department of the~~
- 7           ~~financial institution,~~
- 8       ~~(3) Money received or held by a financial institution, or~~
- 9           ~~the credit given for money or its equivalent received~~
- 10           ~~or held by a financial institution in the usual course~~
- 11           ~~of business for a special or specific purpose,~~
- 12           ~~regardless of the legal relationship thereby~~
- 13           ~~established, including, without being limited to,~~
- 14           ~~escrow funds, funds held as security for an obligation~~
- 15           ~~due the financial institution or others (including~~
- 16           ~~funds held as dealers' reserves) or for securities~~
- 17           ~~loaned by the financial institution, funds deposited~~
- 18           ~~by a debtor to meet maturing obligations, funds~~
- 19           ~~deposited as advance payment on subscriptions to~~
- 20           ~~United States government securities, funds held for~~
- 21           ~~distribution or purchase of securities, funds held to~~



1 ~~meet the financial institution's acceptances or~~  
2 ~~letters of credit, and withheld taxes;~~

3 ~~(4) Outstanding drafts, cashier's checks, money orders, or~~  
4 ~~other officer's checks issued in the usual course of~~  
5 ~~business for any purpose; or~~

6 ~~(5) Money or its equivalent held as a credit balance by a~~  
7 ~~financial institution on behalf of its customer if the~~  
8 ~~financial institution is engaged in soliciting and~~  
9 ~~holding the balances in the regular course of its~~  
10 ~~business.~~

11 ~~"Financial institution" means banks, building and loan~~  
12 ~~associations, development companies, financial corporations,~~  
13 ~~financial services loan companies, small business investment~~  
14 ~~companies, financial holding companies, mortgage loan originator~~  
15 ~~companies as defined in chapter 454F, and trust companies all as~~  
16 ~~defined in chapter 241.~~

17 ~~"Leasing of personal property" occurs if:~~

18 ~~(1) The lease is to serve as the functional equivalent of~~  
19 ~~an extension of credit to the lessee of the property;~~

20 ~~(2) The property to be leased is acquired specifically for~~  
21 ~~the leasing transaction under consideration, or was~~





- 1           ~~acquired specifically for an earlier leasing~~
- 2           ~~transaction;~~
- 3       ~~(3) The lease is on a nonoperating basis where the~~
- 4           ~~financial institution may not, directly or indirectly:~~
- 5           ~~(A) Provide for the maintenance, repair, replacement,~~
- 6           ~~or servicing of the leased property during the~~
- 7           ~~lease term;~~
- 8           ~~(B) Purchase parts and accessories in bulk or for an~~
- 9           ~~individual property after the lessee has taken~~
- 10           ~~delivery of the property; or~~
- 11           ~~(C) Purchase insurance for the lessee;~~
- 12       ~~(4) At the inception of the lease the effect of the~~
- 13           ~~transaction will yield a return that will compensate~~
- 14           ~~the lessor financial institution for not less than the~~
- 15           ~~lessor's full investment in the property plus the~~
- 16           ~~estimated total cost of financing the property over~~
- 17           ~~the term of the lease, from:~~
- 18           ~~(A) Rentals;~~
- 19           ~~(B) Estimated tax benefits, including capital goods~~
- 20           ~~excise tax credit, net economic gain from tax~~
- 21           ~~deferral from accelerated depreciation, and other~~



1 tax benefits with a substantially similar effect;  
2 and

3 ~~(C) The estimated residual value of the property at~~  
4 ~~the expiration of the initial term of the lease;~~

5 ~~(5) The maximum lease term during which the lessor~~  
6 ~~financial institution shall recover the lessor's full~~  
7 ~~investment in the property, plus the estimated total~~  
8 ~~cost of financing the property, shall be forty years;~~  
9 and

10 ~~(6) At the expiration of the lease, including any renewals~~  
11 ~~or extensions with the same lessee, all interest in~~  
12 ~~the property shall be either liquidated or leased~~  
13 ~~again on a nonoperating basis as soon as practicable~~  
14 ~~but in no event later than two years from the~~  
15 ~~expiration of the lease; provided that in no case~~  
16 ~~shall the lessor retain any interest in the property~~  
17 ~~beyond fifty years after the lessor's acquisition of~~  
18 ~~the property." ]~~

19 SECTION 39. Section 237-24.9, Hawaii Revised Statutes, is  
20 repealed.

21 [~~§237-24.9 Aircraft service and maintenance facility.~~

22 ~~(a) This chapter shall not apply to amounts received from the~~



1 ~~servicing and maintenance of aircraft or from the construction~~  
2 ~~of an aircraft service and maintenance facility in the State.~~

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

4 ~~"Aircraft" means any craft or artificial contrivance of~~  
5 ~~whatever description engaged in intrastate, interstate, or~~  
6 ~~international scheduled commercial use as defined in chapter~~  
7 ~~263, that operates with two or more jet engines.~~

8 ~~"Aircraft service and maintenance" means all scheduled and~~  
9 ~~unscheduled tasks performed within an aircraft service and~~  
10 ~~maintenance facility for the inspection, modification,~~  
11 ~~maintenance, and repair of aircraft and related components~~  
12 ~~including engines, hydraulic and electrical systems, and all~~  
13 ~~other components which are an integral part of an aircraft.~~

14 ~~"Aircraft service and maintenance facility" means a~~  
15 ~~facility for aircraft service and maintenance that is not less~~  
16 ~~than thirty thousand square feet in area, and which may include~~  
17 ~~ancillary space which is integral to the facility, such as parts~~  
18 ~~and inventory warehouse space, tool rooms, and related~~  
19 ~~administrative and employee space.~~

20 ~~"Construction of an aircraft service and maintenance~~  
21 ~~facility" means all design, engineering, labor, and material~~  
22 ~~costs associated with the construction of facilities the~~



1 ~~principle purpose of which is the provision of facilities for~~  
2 ~~aircraft service and maintenance.~~

3 ~~"Maintenance" means the upkeep of aircraft engines,~~  
4 ~~hydraulic and electrical systems, and all other components which~~  
5 ~~are an integral part of an aircraft, but does not include~~  
6 ~~refueling, janitorial services or cleaning, restocking of~~  
7 ~~aircraft and passenger supplies, or loading or unloading of~~  
8 ~~cargo and passenger baggage." ]~~

9 SECTION 40. Section 237-25, Hawaii Revised Statutes, is  
10 repealed.

11 ~~[ "§237-25 Exemptions of sales and gross proceeds of sales~~  
12 ~~to federal government, and credit unions. (a) Any provision of~~  
13 ~~law to the contrary notwithstanding, there shall be exempted~~  
14 ~~from, and excluded from the measures of, the tax imposed by~~  
15 ~~chapter 237 all sales, and the gross proceeds of all sales, of:~~

16 ~~(1) Intoxicating liquor, as defined in chapter 281,~~  
17 ~~hereafter sold by any person licensed under chapter~~  
18 ~~281 to the United States (including any agency or~~  
19 ~~instrumentality of the United States that is wholly~~  
20 ~~owned or otherwise so constituted as to be immune from~~  
21 ~~the levy of a tax under chapter 238 or 244D but not~~  
22 ~~including national banks), or to any organization to~~



1           ~~which that sale is permitted by the proviso of "Class~~  
2           ~~3" of section 281-31, located on any Army, Navy, or~~  
3           ~~Air Force reservation, but the person making the sale~~  
4           ~~shall nevertheless, within the meaning of chapters~~  
5           ~~237, 244D, and 281 be deemed to be a licensed seller;~~  
6           ~~(2) Tobacco products and cigarettes, as defined in chapter~~  
7           ~~245, sold by any person licensed under the chapter to~~  
8           ~~the United States (including any agency or~~  
9           ~~instrumentality thereof that is wholly owned or~~  
10           ~~otherwise so constituted as to be immune from the levy~~  
11           ~~of a tax under chapter 238 or 245 but not including~~  
12           ~~national banks), but the person making the sale shall~~  
13           ~~nevertheless, within the meaning of chapters 237 and~~  
14           ~~245, be deemed to be a licensed seller;~~  
15           ~~(3) Other tangible personal property sold by any person~~  
16           ~~licensed under this chapter to the United States~~  
17           ~~(including any agency, instrumentality, or federal~~  
18           ~~credit union thereof but not including national~~  
19           ~~banks), and to any state chartered credit union, but~~  
20           ~~the person making such sale shall nevertheless, within~~  
21           ~~the meaning of this chapter, be deemed a licensed~~  
22           ~~seller; and~~



1       ~~(4) When the amount of property sold by a licensee turns~~  
2           ~~upon the amount of the property sold through a vending~~  
3           ~~machine or similar device to the customer using the~~  
4           ~~device, there shall not be deemed to have occurred any~~  
5           ~~sale covered by an exemption under paragraph (1), (2),~~  
6           ~~or (3).~~

7       ~~(b) Nothing in this section shall be deemed to exempt any~~  
8       ~~sales to or by a federal cost plus contractor, as defined in~~  
9       ~~chapter 237, or the gross proceeds thereof, with respect to all~~  
10       ~~such activities and transactions, taxes shall be levied,~~  
11       ~~returned, computed, and assessed the same as if this section had~~  
12       ~~not been enacted, and in the case of an election made under~~  
13       ~~sections 237-13(2)(F) and 237-13(3)(C)(ii), the tax shall be~~  
14       ~~computed the same as upon a sale to the state government.~~

15       ~~(c) Nothing in this section shall be deemed to exempt any~~  
16       ~~person engaging or continuing in a service business or calling~~  
17       ~~from any part of the tax imposed upon the person for such~~  
18       ~~activity, and the person shall not be entitled to deduct any~~  
19       ~~amount for tangible personal property furnished in conjunction~~  
20       ~~therewith even though the person separately bills or otherwise~~  
21       ~~shows the amount of the gross income of the business derived~~  
22       ~~from the furnishing of the property.~~



1       ~~(d) The exemption granted by this section shall apply to~~  
2 ~~the seller of products sold in the State as provided in~~  
3 ~~subsection (a) in respect of the privilege of manufacturing or~~  
4 ~~producing, as well as the privilege of selling, and the value or~~  
5 ~~gross proceeds of sales of the products so sold shall be~~  
6 ~~excluded from the measure of the tax imposed by chapter 237 upon~~  
7 ~~the seller as a manufacturer or producer." ]~~

8       SECTION 41. Section 237-26, Hawaii Revised Statutes, is  
9 repealed.

10       ~~[ "§237-26 Exemption of certain scientific contracts with~~  
11 ~~the United States. (a) Any provision of law to the contrary~~  
12 ~~notwithstanding, there shall be exempted from the measure of the~~  
13 ~~taxes imposed by chapter 237, all of the gross proceeds derived~~  
14 ~~by a contractor or subcontractor arising from the performance of~~  
15 ~~any scientific work as defined in subsection (b), under a~~  
16 ~~contract or subcontract entered into with the United States~~  
17 ~~(including any agency or instrumentality thereof but not~~  
18 ~~including national banks), and all of the gross proceeds derived~~  
19 ~~from the sale of tangible personal property by a seller of such~~  
20 ~~tangible personal property to such contractor or subcontractor,~~  
21 ~~provided the exemption herein shall apply only to such tangible~~  
22 ~~personal property which is to be affixed to, or to become a~~



1 ~~physical, integral part of the scientific facility, or which is~~  
2 ~~to be entirely consumed during the performance of the service~~  
3 ~~required by the contract or subcontract.~~

4 ~~(b) For purposes of this section, "scientific work" is~~  
5 ~~work involving primarily the research and development for, or~~  
6 ~~the design, manufacture, instrumentation, installation,~~  
7 ~~maintenance, or operation of aerospace, agricultural,~~  
8 ~~astronomical, biomedical, electronic, geophysical,~~  
9 ~~oceanographic, test range, or other scientific facilities.~~  
10 ~~Maintenance or operation, for purposes of this section, shall~~  
11 ~~include housekeeping functions in providing certain~~  
12 ~~nonscientific logistic and support services." ]~~

13 SECTION 42. Section 237-27, Hawaii Revised Statutes, is  
14 repealed.

15 [~~"§237-27 Exemption of certain petroleum refiners. (a)~~

16 ~~As used in this section:~~

17 ~~(1) "Petroleum products" means petroleum, any distillate,~~  
18 ~~fraction, or derivative of petroleum, natural gas or~~  
19 ~~its components, gas manufactured from a petroleum~~  
20 ~~product, and any product derived from the gas or from~~  
21 ~~the manufacture thereof, such as benzene, xylene,~~





1           ~~toluene, acetylene, tars, components of tars, and~~  
2           ~~ammonia.~~

3           ~~(2) "Refiner" means any person who, in the State, engages~~  
4           ~~in the business of refining petroleum products and is~~  
5           ~~taxable under this chapter, upon the value or gross~~  
6           ~~proceeds of sales of the petroleum products resultant~~  
7           ~~from the business. A person who is engaged in~~  
8           ~~business as a refiner and also in other business shall~~  
9           ~~be deemed a refiner only in respect of the business~~  
10           ~~that produces the products included in the measure of~~  
11           ~~the tax imposed by this chapter.~~

12           ~~(3) "Refining" means:~~

13           ~~(A) Any process performed by a refiner that includes~~  
14           ~~a change in the character or properties of a~~  
15           ~~petroleum product through the application of~~  
16           ~~heat, or~~

17           ~~(B) The compounding by a refiner of a petroleum~~  
18           ~~product with a product that has been refined by~~  
19           ~~the refiner by the process stated in clause (A).~~

20           ~~(b) There shall be excluded from the measure of the tax on~~  
21           ~~a refiner such part of the petroleum products resultant from the~~  
22           ~~refiner's business as is to be further refined by another~~



1 ~~refiner, to the extent that the petroleum products resultant~~  
2 ~~from such further refining will be (or but for this subsection~~  
3 ~~would be) included in the measure of the tax on such other~~  
4 ~~refiner, and where petroleum products are to be used partly for~~  
5 ~~such refining and partly for other purposes, the proportion used~~  
6 ~~for each purpose shall be determined upon the basis of weight or~~  
7 ~~BTU content." ]~~

8 SECTION 43. Section 237-27.5, Hawaii Revised Statutes, is  
9 repealed.

10 [~~§237-27.5 Air pollution control facility. (a) As used~~  
11 ~~in this section, "air pollution control facility" shall mean a~~  
12 ~~new identifiable treatment facility, equipment, device, or the~~  
13 ~~like, which is used to abate or control atmospheric pollution or~~  
14 ~~contamination by removing, reducing, or rendering less noxious~~  
15 ~~air contaminants emitted into the atmosphere from a point~~  
16 ~~immediately preceding the point of such removal, reduction, or~~  
17 ~~rendering to the point of discharge of air, meeting emission~~  
18 ~~standards as established by the department of health, excluding~~  
19 ~~air conditioner, fan, or other similar facility for the comfort~~  
20 ~~of persons at a place of business.~~

21 ~~(b) Any provision of law to the contrary notwithstanding,~~  
22 ~~and upon receipt of the certification required by subsection~~



1 ~~(c), there shall be exempted from, and excluded from the measure~~  
2 ~~of, the taxes imposed by this chapter, all of the gross proceeds~~  
3 ~~arising from, and all of the amount of tangible personal~~  
4 ~~property furnished in conjunction with, the construction,~~  
5 ~~reconstruction, erection, operation, use, or maintenance of an~~  
6 ~~air pollution control facility.~~

7 ~~(c) Application for the exemption provided by this section~~  
8 ~~shall first be made with the director of health who, if~~  
9 ~~satisfied that the facility meets the pollution emission~~  
10 ~~criteria established by the department of health, shall certify~~  
11 ~~to that fact. A new certificate shall be obtained from the~~  
12 ~~director of health and filed with the director of taxation every~~  
13 ~~five years certifying that the pollution control facility~~  
14 ~~complies with the pollutant emission criteria established by the~~  
15 ~~department of health." ]~~

16 SECTION 44. Section 237-27.6, Hawaii Revised Statutes, is  
17 repealed.

18 [~~"§237-27.6 Solid waste processing, disposal, and electric~~  
19 ~~generating facility; certain amounts exempt. (a) Any provision~~  
20 ~~of the law to the contrary notwithstanding, there shall be~~  
21 ~~exempted from, and excluded from the measure of, the taxes~~  
22 ~~imposed by this chapter all of the amounts enumerated in~~



1 ~~subsection (b) arising from a transaction involving a sale and~~  
2 ~~leaseback of a solid waste processing, disposal, and electric~~  
3 ~~generating facility entered into by a political subdivision of~~  
4 ~~the State under section 46-19.1 where the facility is owned or~~  
5 ~~under construction by the subdivision before May 10, 1988.~~

6 ~~(b) Amounts are exempted or excluded from taxation under~~  
7 ~~this chapter only to the extent that they:~~

8 ~~(1) Are received by an operator of a facility under an~~  
9 ~~operating contract with a political subdivision, where~~  
10 ~~the:~~

11 ~~(A) Operator, or its successor, entered into an~~  
12 ~~operating contract prior to May 10, 1988;~~

13 ~~(B) Operator enters into a lease of the facility from~~  
14 ~~the owner at a time that coincides with the time~~  
15 ~~the owner and the political subdivision entering~~  
16 ~~into a sale and leaseback transaction; and~~

17 ~~(C) Amounts are used by the operator to make rental~~  
18 ~~payments to the owner;~~

19 ~~(2) Are received as rental payments by the owner of the~~  
20 ~~facility from the operator of the facility;~~



1       ~~(3) Do not exceed the payments made by the owner of the~~  
2           ~~facility under the sale and leaseback transaction to~~  
3           ~~the political subdivision, and~~

4       ~~(4) In no case exceed debt service costs incurred by the~~  
5           ~~political subdivision for the construction of the~~  
6           ~~facility.~~

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

8           ~~"Debt service costs" means payments of principal and~~  
9           ~~interest on general obligation bonds issued at any time by a~~  
10          ~~political subdivision for the construction of the facility.~~

11          ~~"Sale and leaseback" means a transaction in which a~~  
12          ~~facility is sold by a political subdivision to a private entity~~  
13          ~~for cash, under an installment sale, a financing lease, or~~  
14          ~~similar arrangement, or any combination thereof, where the~~  
15          ~~political subdivision has the right to repurchase the facility~~  
16          ~~at a later date, and where the facility is leased to an operator~~  
17          ~~of the facility.~~

18          ~~"Solid waste processing, disposal, and electric generating~~  
19          ~~facility" or "facility" means a facility for the processing and~~  
20          ~~disposal of solid waste or the generation of electric energy, or~~  
21          ~~both, the construction of which has been financed pursuant to~~



1 ~~section 47-4 and constitutes an undertaking as defined in~~  
2 ~~section 49-1.~~

3 ~~"Operator" means a private entity who enters into an~~  
4 ~~agreement or other arrangement with the owner of a solid waste~~  
5 ~~processing, disposal, and electric generating facility for the~~  
6 ~~purpose of operating such facility for a political subdivision~~  
7 ~~of the State.~~

8 ~~"Owner" means any person who purchases a solid waste~~  
9 ~~processing, disposal, and electric generating facility under~~  
10 ~~section 46-19.1."~~

11 SECTION 45. Section 237-28.1, Hawaii Revised Statutes, is  
12 repealed.

13 ~~["§237-28.1] Exemption of certain shipbuilding and ship~~  
14 ~~repair business. There shall be exempted from, and excluded~~  
15 ~~from the measure of, the taxes imposed by this chapter all of~~  
16 ~~the gross proceeds arising from shipbuilding and ship repairs~~  
17 ~~rendered to surface vessels federally owned or engaged in~~  
18 ~~interstate or international trade."]~~

19 SECTION 46. Section 237-29, Hawaii Revised Statutes, is  
20 repealed.

21 ~~["§237-29 Exemptions for certified or approved housing~~  
22 ~~projects. (a) All gross income received by any qualified~~



1 ~~person or firm for the planning, design, financing,~~  
2 ~~construction, sale, or lease in the State of a housing project~~  
3 ~~that has been certified or approved under section 201H-36 shall~~  
4 ~~be exempt from general excise taxes.~~

5 ~~(b) All gross income received by a nonprofit or a limited~~  
6 ~~distribution mortgagor for a low and moderate income housing~~  
7 ~~project certified or approved under section 201H-36 shall be~~  
8 ~~exempt from general excise taxes.~~

9 ~~(c) The director of taxation and the Hawaii housing~~  
10 ~~finance and development corporation shall adopt rules pursuant~~  
11 ~~to chapter 91 for the purpose of this section, including any~~  
12 ~~time limitation for the exemptions." ]~~

13 SECTION 47. Section 237-29.5, Hawaii Revised Statutes, is  
14 repealed.

15 [~~§237-29.5 Exemption for sales of tangible personal~~  
16 ~~property shipped out of the State.~~ (a) There shall be exempted  
17 from, and excluded from the measure of, the taxes imposed by  
18 this chapter all of the value or gross proceeds arising from the  
19 manufacture, production, or sale of tangible personal property:

20 (1) ~~Shipped by the manufacturer, producer, or seller to a~~  
21 ~~point outside the State where the property is resold~~  
22 ~~or otherwise consumed or used outside the State; or~~



1       ~~(2) The sale of which is exempt under section 237-24.3(2).~~

2       ~~(b) For the purposes of this section, the manufacturer,~~  
3 ~~producer, or seller shall take from the purchaser, a~~  
4 ~~certificate, in such form as the department shall prescribe,~~  
5 ~~certifying that the tangible personal property purchased is to~~  
6 ~~be resold or otherwise consumed or used outside the State. Any~~  
7 ~~purchaser who shall furnish such a certificate shall be~~  
8 ~~obligated to pay to the seller, upon demand, if the property~~  
9 ~~purchased is not resold or otherwise consumed or used outside~~  
10 ~~the State, the amount of the additional tax which by reason~~  
11 ~~thereof is imposed upon the seller."]~~

12       SECTION 48. Section 237-29.53, Hawaii Revised Statutes, is  
13 repealed.

14       ~~["§237-29.53 Exemption for contracting or services~~  
15 ~~exported out of State. (a) There shall be exempted from, and~~  
16 ~~excluded from the measure of, taxes imposed by this chapter, all~~  
17 ~~of the value or gross income derived from contracting (as~~  
18 ~~defined under section 237-6) or services performed by a person~~  
19 ~~engaged in a service business or calling in the State for use~~  
20 ~~outside the State where:~~

21       ~~(1) The contracting or services are for resale,~~  
22       ~~consumption, or use outside the State, and~~





1       ~~(2) The value or gross income derived from the contracting~~  
2           ~~or services performed would otherwise be subject to~~  
3           ~~the tax imposed under this chapter on contracting or~~  
4           ~~services at the highest rate.~~

5       ~~For the purposes of this subsection, the seller or person~~  
6       ~~rendering the contracting or services exported and resold,~~  
7       ~~consumed, or used outside the State shall take from the~~  
8       ~~customer, a certificate or an equivalent, in a form the~~  
9       ~~department prescribes, certifying that the contracting or~~  
10       ~~service purchased is to be otherwise resold, consumed, or used~~  
11       ~~outside the State. Any customer who furnishes this certificate~~  
12       ~~or an equivalent shall be obligated to pay the seller or person~~  
13       ~~rendering the contracting or services, upon demand, if the~~  
14       ~~contracting or service purchased is not resold or otherwise~~  
15       ~~consumed or used outside the State, the amount of the additional~~  
16       ~~tax which by reason thereof is imposed upon the seller or person~~  
17       ~~rendering the contracting or service.~~

18       ~~(b) There shall be exempted from, and excluded from the~~  
19       ~~measure of, taxes imposed by this chapter, all of the value or~~  
20       ~~gross income derived from contracting (as defined in section~~  
21       ~~237-6) or services performed by a person engaged in a service~~  
22       ~~business or calling in the State for a purchaser who resells all~~



1 ~~of the contracting or services for resale, consumption, or use~~  
2 ~~outside the State pursuant to subsection (a). For the purposes~~  
3 ~~of this subsection, the seller or person rendering the~~  
4 ~~contracting or services for a purchaser who resells the~~  
5 ~~contracting or services for resale, consumption, or use outside~~  
6 ~~the State shall take from the purchaser, a certificate or an~~  
7 ~~equivalent, in a form that the department prescribes, certifying~~  
8 ~~that the contracting or services purchased is to be for resale,~~  
9 ~~consumption, or use outside the State pursuant to subsection~~  
10 ~~(a). Any purchaser who furnishes this certificate or an~~  
11 ~~equivalent shall be obligated to pay the seller or person~~  
12 ~~rendering the contracting or services, upon demand, if the~~  
13 ~~contracting or services purchased is not resold in its entirety~~  
14 ~~to a customer of the purchaser who has complied with subsection~~  
15 ~~(a), the amount of the additional tax which by reason thereof is~~  
16 ~~imposed upon the seller or the person rendering the contracting~~  
17 ~~or service." ]~~

18 SECTION 49. Section 237-29.55, Hawaii Revised Statutes, is  
19 repealed.

20 ~~["§237-29.55] Exemption for sale of tangible personal~~  
21 ~~property for resale at wholesale. (a) There shall be exempted~~  
22 ~~from, and excluded from the measure of, the taxes imposed by~~



1 ~~this chapter all of the gross proceeds or gross income arising~~  
2 ~~from the sale of tangible personal property imported to Hawaii~~  
3 ~~from a foreign or domestic source to a licensed taxpayer for~~  
4 ~~subsequent resale for the purpose of wholesale as defined under~~  
5 ~~section 237-4.~~

6 ~~(b) The department, by rule, may provide that a seller may~~  
7 ~~take from the purchaser of imported tangible personal property,~~  
8 ~~a certificate, in a form that the department shall prescribe,~~  
9 ~~certifying that the purchaser of the imported tangible personal~~  
10 ~~property shall resell the imported tangible personal property at~~  
11 ~~wholesale as defined under section 237-4. Any purchaser who~~  
12 ~~furnishes a certificate shall be obligated to pay to the seller,~~  
13 ~~upon demand, if the sale in fact is not a sale for the purpose~~  
14 ~~of resale at wholesale, the amount of the additional tax which~~  
15 ~~by reason thereof is imposed upon the seller. The absence of a~~  
16 ~~certificate, unless the sales of the business are exclusively a~~  
17 ~~sale for the purpose of resale at wholesale, in itself, shall~~  
18 ~~give rise to the presumption that the sale is not a sale for the~~  
19 ~~purpose of resale at wholesale." ]~~

20 SECTION 50. Section 237-29.7, Hawaii Revised Statutes, is  
21 repealed.



1           ~~["§237-29.7] Exemption of insurance companies. This~~  
2 ~~chapter shall not apply to the gross income or gross proceeds of~~  
3 ~~insurance companies authorized to do business under chapter 431,~~  
4 ~~except this exemption shall not apply to any gross income or~~  
5 ~~gross proceeds received after December 31, 1991, as rents from~~  
6 ~~investments in real property in this State, provided that gross~~  
7 ~~income or gross proceeds from investments in real property~~  
8 ~~received by insurance companies after December 31, 1991, under~~  
9 ~~written contracts entered into before January 1, 1992, that do~~  
10 ~~not provide for the passing on of taxes or tax increases shall~~  
11 ~~not be taxed until the contracts are renegotiated, renewed, or~~  
12 ~~extended."].~~

13           SECTION 51. Section 237-29.8, Hawaii Revised Statutes, is  
14 repealed.

15           ~~["§237-29.8] Call centers; exemption; engaging in~~  
16 ~~business; definitions. (a) This chapter shall not apply to~~  
17 ~~amounts received from a person operating a call center by a~~  
18 ~~person engaged in business as a telecommunications common~~  
19 ~~carrier for interstate or foreign telecommunications services,~~  
20 ~~including toll free telecommunications, telecommunications~~  
21 ~~capabilities for electronic mail, voice, and data~~  
22 ~~telecommunications, computerized telephone support, facsimile,~~



1 ~~wide area telecommunications services, or computer to computer~~  
2 ~~communication.~~

3 ~~(b) The establishment of a call center in this State by~~  
4 ~~any person shall not be used by itself by the State to find that~~  
5 ~~any other part of the person's business is engaged in business~~  
6 ~~in this State for the purposes of this chapter. Gross income or~~  
7 ~~gross proceeds received by a call center for customer service~~  
8 ~~and support shall be exempt from the measure of taxes imposed by~~  
9 ~~this chapter.~~

10 ~~(c) The department, by rule, may provide that the person~~  
11 ~~providing the telecommunications service may take from the~~  
12 ~~person operating a call center a certificate, in a form that the~~  
13 ~~department shall prescribe, certifying that the amounts received~~  
14 ~~for telecommunications services are for operating a call center.~~  
15 ~~If the certificate is required by rule of the department, the~~  
16 ~~absence of the certificate in itself shall give rise to the~~  
17 ~~presumption that the amounts received from the sale of~~  
18 ~~telecommunications services are not for operating a call center.~~

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

20 ~~"Call center" means a physical or electronic operation that~~  
21 ~~focuses on providing customer service and support for computer~~  
22 ~~hardware and software companies, manufacturing companies,~~



1 ~~software service organizations, and telecommunications support~~  
2 ~~services, within an organization in which a managed group of~~  
3 ~~individuals spend most of their time engaging in business by~~  
4 ~~telephone, usually working in a computer automated environment,~~  
5 ~~provided that the operation shall not include telemarketing or~~  
6 ~~sales.~~

7 ~~"Customer service and support" means product support,~~  
8 ~~technical assistance, sales support, phone or computer based~~  
9 ~~configuration assistance, software upgrade help lines, and~~  
10 ~~traditional help desk services.~~

11 ~~"Telecommunications common carrier" means any person that~~  
12 ~~owns, operates, manages, or controls any facility used to~~  
13 ~~furnish telecommunications services for profit to the public, or~~  
14 ~~to classes of users as to be effectively available to the~~  
15 ~~public, engaged in the provision of services, such as voice,~~  
16 ~~data, image, graphics, and video services, that make use of all~~  
17 ~~or part of their transmission facilities, switches, broadcast~~  
18 ~~equipment, signalling, or control devices.~~

19 ~~"Telecommunications service" or "telecommunications" means~~  
20 ~~the offering of transmission between or among points specified~~  
21 ~~by a user, of information of the user's choosing, including~~  
22 ~~voice, data, image, graphics, and video without change in the~~



1 ~~form or content of the information, as sent and received, by~~  
2 ~~means of electromagnetic transmission, or other similarly~~  
3 ~~capable means of transmission, with or without benefit of any~~  
4 ~~closed transmission medium.~~

5 ~~(e) This section shall not apply to gross proceeds or~~  
6 ~~gross income received after June 30, 2010." ]~~

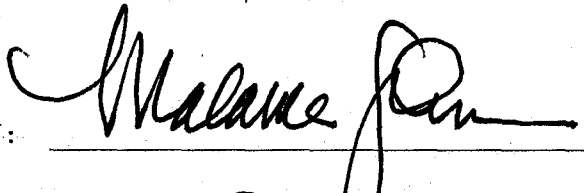
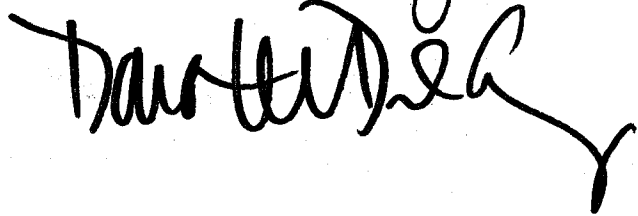
7 PART IV.

8 SECTION 52. Statutory material to be repealed is bracketed  
9 and stricken.

10 SECTION 53. This Act, upon its approval, shall take effect  
11 for taxable years beginning after December 31, 2011.

12

INTRODUCED BY:



**Report Title:**

Income Tax; General Excise Tax; Credits; Exemptions

**Description:**

Repeals income, general excise, and other certain tax credits and exclusions, with certain exemptions.

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

