

JAN 22 2016

A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. The legislature finds that tax exemptions,
2 exclusions, and credits require periodic review to determine
3 their tax expenditures, benefits, and continued merit and
4 necessity. The legislature further finds that tax expenditures
5 from the exemptions, exclusions, and credits reduce revenues to
6 the State. This requires ordinary taxpayers who do not benefit
7 from the exemptions, exclusions, and credits to compensate for
8 the reduced revenues. Alternatively, funding for important
9 state programs must be curtailed. The legislature further finds
10 that good tax policy requires the equal treatment of similarly-
11 situated taxpayers for the sake of equity and efficiency. When
12 certain taxpayers receive special benefits to the detriment of
13 others, it may generate resentment that leads to the loss of the
14 general public's confidence in fair treatment by the state
15 government.

16 However, the legislature also believes that certain tax
17 exemptions, exclusions, and credits are worthy of continuation



1 for equity, efficiency, and economic and social policy. The
2 legislature finds that independent review by the state auditor
3 would help the legislature to identify and affirm the
4 exemptions, exclusions, and credits that represent good public
5 policy.

6 Accordingly, the purpose of this Act is to require the
7 state auditor to periodically review certain tax exemptions,
8 exclusions, and credits under the general excise and use taxes,
9 public service company tax, and insurance premium tax. These
10 taxes are generally imposed on gross income or a similar
11 measure. The legislature finds that this Act is necessary to
12 promote tax equity and efficiency, adequacy of state revenues,
13 public transparency, and confidence in a fair state government.

14 This Act also generates funds for the auditor's reviews by
15 imposing a surcharge on each taxpayer who files a tax return and
16 benefits from a tax exemption, exclusion, or credit. The
17 legislature finds that the reviews should be funded by the
18 taxpayers who receive these tax benefits and not through general
19 fund taxes paid by other businesses and state residents.

20 The legislature also notes that this Act comprehensively
21 imposes the surcharge at the same dollar amount on each taxpayer



1 who files a tax return and benefits from a tax exemption,
2 exclusion, or credit, even if that exemption, exclusion, or
3 credit is not scheduled for review during that taxable year.
4 The legislature has established this process for administrative
5 efficiency and ease, balancing the interest of the State in
6 funding the reviews against the relatively negligible financial
7 impact on taxpayers benefiting from the exemptions, exclusions,
8 and credits.

9 SECTION 2. Chapter 23, Hawaii Revised Statutes, is amended
10 by adding a new part to be appropriately designated and to read
11 as follows:

12 "PART . REVIEW OF TAX EXEMPTIONS,
13 EXCLUSIONS, AND CREDITS

14 §23-A Review of certain exemptions, exclusions, and
15 credits under the general excise and use taxes, public service
16 company tax, and insurance premium tax. (a) The auditor shall
17 conduct a review of the tax exemptions, exclusions, and credits
18 listed in sections 23-D to 23-M.

19 (b) In the review of an exemption, exclusion, or credit,
20 the auditor shall:



- 1 (1) Determine the amount of tax expenditure for the
2 exemption, exclusion, or credit for each of the
3 previous three fiscal years;
- 4 (2) Estimate the amount of tax expenditure for the
5 exemption, exclusion, or credit for the current fiscal
6 year and the next two fiscal years;
- 7 (3) Determine whether the exemption, exclusion, or credit
8 has achieved and continues to achieve the purpose for
9 which it was enacted by the legislature;
- 10 (4) Determine whether the exemption, exclusion, or credit
11 is necessary to promote or preserve tax equity or
12 efficiency;
- 13 (5) If the exemption, exclusion, or credit was enacted
14 because of its purported economic or employment
15 benefit to the State:
 - 16 (A) Determine whether a benefit has resulted, and if
17 so, quantify to the extent possible the estimated
18 benefit directly attributable to the exemption,
19 exclusion, or credit; and



1 (B) Comment on whether the benefit, if any, outweighs
2 the cost of the exemption, exclusion, or credit;
3 and

4 (6) Estimate the annual cost of the exemption, exclusion,
5 or credit per low-income resident of the State. For
6 purposes of this paragraph, a "low-income resident of
7 the State" means an individual who is a resident of
8 the State and:

9 (A) Is the only member of a family of one and has an
10 income of not more than eighty per cent of the
11 area median income for a family of one; or

12 (B) Is part of a family with an income of not more
13 than eighty per cent of the area median income
14 for a family of the same size.

15 The cost shall be estimated by dividing the annual tax
16 expenditure for the exemption, exclusion, or credit
17 for each fiscal year under review by the number of
18 low-income residents of the State in the fiscal year.

19 The estimate determined pursuant to this paragraph is
20 intended to display the effect on low-income residents
21 of the State if they directly receive, either through



1 tax reduction or negative tax, the dollars saved by
2 elimination of the exemption, exclusion, or credit.

3 (c) Based on the review, the auditor shall recommend that
4 the exemption, exclusion, or credit be retained without
5 modification, amended, or repealed.

6 §23-B Funds for review; audit revolving fund; excessive
7 fee reduction. (a) Subject to legislative appropriation, the
8 auditor shall pay for the reviews required by this part using
9 the proceeds of the surcharge deposited into the audit revolving
10 fund pursuant to sections 237- , 238- , 239- , and
11 431:7- .

12 (b) If the auditor determines that the moneys in the audit
13 revolving fund expendable for the reviews exceed the amount
14 necessary for a future fiscal year, the auditor may require the
15 director of taxation to reduce the surcharge collectible for a
16 tax year under sections 237- , 238- , 239- , and
17 431:7- to a specified dollar amount less than \$. The
18 specified dollar amount shall be sufficient to pay for the
19 reviews in the future fiscal year.

20 If, after a reduction of the surcharge, the auditor
21 determines that an increase of the surcharge is necessary for a



1 future fiscal year, the auditor shall require the director of
2 taxation to increase the surcharge to a specified dollar amount
3 not exceeding \$.

4 Any surcharge reduction or increase shall apply to every
5 surcharge imposed under sections 237- , 238- , 239-
6 , and 431:7- .

7 The auditor shall provide the director of taxation with
8 written notice of the reduction or increase of the surcharge at
9 least one year prior to the commencement of the taxable year for
10 which the surcharge amount is to be reduced or increased.

11 **§23-C Director of taxation; cooperation.** The director of
12 taxation shall cooperate with the auditor's request for
13 information when the auditor conducts a review of an exemption,
14 exclusion, or credit; provided that the director of taxation
15 shall not disclose to the auditor any information prohibited
16 from disclosure by law.

17 **§23-D Review for 2017 and every tenth year thereafter.**

18 (a) The exemptions and exclusions under the general excise and
19 use taxes listed in subsection (c) shall be reviewed in 2017 and
20 every tenth year thereafter.



1 (b) The auditor shall submit the findings and
2 recommendations of the reviews to the legislature and governor
3 no later than twenty days prior to the convening of the
4 immediately following regular session.

5 (c) This section shall apply to the following:

6 (1) Section 237-3(b)--Gross receipts from the following:

7 (A) Sales of securities;

8 (B) Sales of commodity futures;

9 (C) Sales of evidences of indebtedness;

10 (D) Fee simple sales of improved or unimproved land;

11 (E) Dividends; and

12 (F) Sales or transfers of materials and supplies,
13 interest on loans, and provision of services
14 among members of an affiliated public service
15 company group;

16 (2) Section 237-13(3)(B)--Gross income of contractors from
17 subcontractors;

18 (3) Section 237-13(3)(C)--Reimbursements to federal cost-
19 plus contractors;



- 1 (4) Section 237-13(6)(D)(i), (ii), (iii), and (iv)--Gross
2 receipts of home service providers acting as service
3 carriers;
- 4 (5) Section 237-24.3(11)--Amounts received from aircraft
5 and aircraft engine rental or leasing;
- 6 (6) Section 237-24.9--Amounts received from aircraft
7 servicing and maintenance and aircraft service and
8 maintenance facility construction;
- 9 (7) Section 238-1, paragraph (6) of the definition of
10 "use"--The value of aircraft leases or rental and
11 acquired or imported aircrafts and aircraft engines;
12 and
- 13 (8) Section 238-1, paragraph (8) of the definition of
14 "use"--The value of material, parts, or tools for
15 aircraft service and maintenance and aircraft service
16 and maintenance facility construction.

17 **§23-E Review for 2018 and every tenth year thereafter.**

18 (a) The exemptions and exclusions under the general excise tax
19 listed in subsection (c) shall be reviewed in 2018 and every
20 tenth year thereafter.



1 (b) The auditor shall submit the findings and
2 recommendations of the reviews to the legislature and governor
3 no later than twenty days prior to the convening of the
4 immediately following regular session.

5 (c) This section shall apply to the following:

- 6 (1) Section 237-16.5--Gross income of real property
7 lessees from sublessees;
- 8 (2) Section 237-16.8--Value or gross income of nonprofit
9 organizations from conventions, conferences, trade
10 shows, and display spaces;
- 11 (3) Section 349-10--Proceeds earned from annual senior
12 citizen's fairs;
- 13 (4) Section 237-23.5--Amounts received from common
14 payments of related entities;
- 15 (5) Section 237-24(13)--Amounts received by blind, deaf,
16 or totally disabled persons from their business;
- 17 (6) Section 237-24(14)--Amounts received by independent
18 cane farmers who are sugarcane producers;
- 19 (7) Section 237-24(15)--Amounts received by foster
20 parents;



1 (8) Section 237-24(16)--Reimbursements to cooperative
2 housing corporations for operating and maintenance
3 expenses;

4 (9) Section 237-24(17)--Amounts received by TRICARE
5 managed care support contractors; and

6 (10) Section 237-24(18)--Amounts received by patient-
7 centered community care program contractors.

8 §23-F Review for 2019 and every tenth year thereafter.

9 (a) The exemptions, exclusions, or credits under the general
10 excise tax, public service company tax, or insurance premium tax
11 listed in subsection (c) shall be reviewed in 2019 and every
12 tenth year thereafter.

13 (b) The auditor shall submit the findings and
14 recommendations of the reviews to the legislature and governor
15 no later than twenty days prior to the convening of the
16 immediately following regular session.

17 (c) This section shall apply to the following:

18 (1) Section 239-2, paragraph (5) of the definition of
19 "gross income"--Gross income of home service providers
20 of mobile telecommunications services;



- 1 (2) Section 239-2, exclusions under the definition of
2 "gross income"--Dividends paid by one member to
3 another member of an affiliated public service company
4 group or gross income from the sale or transfer of
5 materials and supplies, interest on loans, and
6 provision of services among members of an affiliated
7 public service company group;
- 8 (3) Section 237-3(b)--Gross receipts from the sale or
9 transfer of materials and supplies, interest on loans,
10 and provision of services among members of an
11 affiliated public service company group;
- 12 (4) Section 239-5.5--Gross income of utilities from
13 monthly surcharges;
- 14 (5) Section 239-5.6--Gross income of electric utility
15 companies from cable surcharges;
- 16 (6) Section 239-6.5--Tax credit for lifeline telephone
17 service subsidies;
- 18 (7) Section 269-172--Green infrastructure charges received
19 by electric utilities;
- 20 (8) Section 237-29.7--Gross income or gross proceeds
21 received by insurance companies;



1 (9) Section 431:7-207--Tax credit to facilitate regulatory
2 oversight;

3 (10) Section 432:1-403--Exemption for nonprofit medical
4 indemnity or hospital service associations or
5 societies; and

6 (11) Section 432:2-503--Exemption for fraternal benefit
7 societies.

8 **§23-G Review for 2020 and every tenth year thereafter.**

9 (a) The exemptions or exclusions under the general excise and
10 use taxes listed in subsection (c) shall be reviewed in 2020 and
11 every tenth year thereafter.

12 (b) The auditor shall submit the findings and
13 recommendations of the reviews to the legislature and governor
14 no later than twenty days prior to the convening of the
15 immediately following regular session.

16 (c) This section shall apply to the following:

17 (1) Section 237-24.3(1)--Amounts received from loading,
18 transporting, and unloading agricultural commodities
19 shipped interisland;

20 (2) Section 237-24.3(3)(A)--Amounts received from cargo
21 loading or unloading;



- 1 (3) Section 237-24.3(3)(B)--Amounts received from tugboat
2 and towage services;
- 3 (4) Section 237-24.3(3)(C)--Amounts received from the
4 transportation of pilots or government officials and
5 other maritime-related services;
- 6 (5) Section 238-1, paragraph (7) of the definition of
7 "use"--The value of oceangoing vehicles for
8 transportation from one point to another in the State;
- 9 (6) Section 238-3(g)--The value of imported intoxicating
10 liquor and cigarettes and tobacco products for sale to
11 persons or common carriers in interstate commerce;
- 12 (7) Section 238-3(h)--The value of vessels constructed
13 under section 189-25, relating to commercial fishing
14 vessel loans, prior to July 1, 1969; and
- 15 (8) Section 237-28.1--Gross proceeds from shipbuilding and
16 ship repair.

17 **§23-H Review for 2021 and every tenth year thereafter.**

- 18 (a) The exemptions or exclusions under the general excise tax
19 listed in subsection (c) shall be reviewed in 2021 and every
20 tenth year thereafter.



1 (b) The auditor shall submit the findings and
2 recommendations of the reviews to the legislature and governor
3 no later than twenty days prior to the convening of the
4 immediately following regular session.

5 (c) This section shall apply to the following:

6 (1) Section 237-24.3(4)--Amounts received by employment
7 benefit plans and amounts received by nonprofit
8 organizations or offices for the administration of
9 employee benefit plans;

10 (2) Section 237-24.3(5)--Amounts received from food
11 coupons under the federal food stamp program or
12 vouchers under the Special Supplemental Foods Program
13 for Women, Infants and Children;

14 (3) Section 237-24.3(6)--Amounts received from the sale of
15 prescription drugs or prosthetic devices;

16 (4) Section 237-24.3(8)--Amounts received as dues by
17 unincorporated merchants associations for advertising
18 or promotion;

19 (5) Section 237-24.3(9)--Amounts received by labor
20 organizations from real property leases;



1 (6) Section 237-24.75(2)--Reimbursements to the Hawaii
2 convention center operator from the Hawaii tourism
3 authority;

4 (7) Section 237-24.75(3)--Reimbursements to professional
5 employer organizations from client companies for
6 employee wages and fringe benefits; and

7 (8) Section 209E-11--Amounts received by qualified
8 businesses in enterprise zones.

9 **§23-I Review for 2022 and every tenth year thereafter.**

10 (a) The exemptions or exclusions under the general excise and
11 use taxes listed in subsection (c) shall be reviewed in 2022 and
12 every tenth year thereafter.

13 (b) The auditor shall submit the findings and
14 recommendations of the reviews to the legislature and governor
15 no later than twenty days prior to the convening of the
16 immediately following regular session.

17 (c) This section shall apply to the following:

18 (1) Section 237-24.3(2)--Reimbursements to associations of
19 owners of condominium property regimes or nonprofit
20 homeowners or community associations for common
21 expenses;



- 1 (2) Section 237-24.5--Amounts received by exchanges or
- 2 exchange members;
- 3 (3) Section 237-25(a)(3)--Gross income received from
- 4 tangible personal property sales to state-chartered
- 5 credit unions;
- 6 (4) Section 237-24.8--Amounts received by financial
- 7 institutions, trust companies, trust departments, or
- 8 financial corporations acting as interbank brokers;
- 9 (5) Section 237-26--Gross proceeds of scientific
- 10 contractors and subcontractors;
- 11 (6) Section 238-3(j)--The value of property or services
- 12 exempted by section 237-26, relating to scientific
- 13 contracts; and
- 14 (7) Section 237-27--Amounts received by petroleum product
- 15 refiners from other refiners.

16 **§23-J Review for 2023 and every tenth year thereafter.**

17 (a) The exemptions or exclusions under the general excise tax

18 listed in subsection (c) shall be reviewed in 2023 and every

19 tenth year thereafter.

20 (b) The auditor shall submit the findings and

21 recommendations of the reviews to the legislature and governor



1 no later than twenty days prior to the convening of the
2 immediately following regular session.

3 (c) This section shall apply to the following:

4 (1) Section 237-24.7(1)--Amounts received by hotel
5 operators and hotel suboperators for employee wages
6 and fringe benefits;

7 (2) Section 237-24.7(2)--Amounts received by a county
8 transportation system operator under a contract with
9 the county;

10 (3) Section 237-24.7(4)--Amounts received by orchard
11 property operators for employee wages and fringe
12 benefits;

13 (4) Section 237-24.7(6)--Amounts received from insurers
14 for damage or loss of inventory of businesses located
15 in a natural disaster area;

16 (5) Section 237-24.7(7)--Amounts received by community
17 organizations, school booster clubs, and nonprofit
18 organizations for precinct and other election-related
19 activities;

20 (6) Section 237-24.7(8)--Interest received by persons
21 domiciled outside the State from trust companies



1 acting as payment agents or trustees on behalf of
2 issuers or payees of interest-bearing instruments or
3 obligations;

4 (7) Section 237-24.7(9)--Amounts received by management
5 companies from related entities engaged in interstate
6 or foreign common carrier telecommunications services
7 for employee wages and fringe benefits; and

8 (8) Section 237-24.7(10)--Amounts received from high
9 technology research and development grants.

10 **§23-K Review for 2024 and every tenth year thereafter.**

11 (a) The exemptions, exclusions, or credits under the general
12 excise and use taxes and insurance premium tax listed in
13 subsection (c) shall be reviewed in 2024 and every tenth year
14 thereafter.

15 (b) The auditor shall submit the findings and
16 recommendations of the reviews to the legislature and governor
17 no later than twenty days prior to the convening of the
18 immediately following regular session.

19 (c) This section shall apply to the following:



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- 1 (1) Section 237-27.5--Gross proceeds from air pollution
2 control facility construction, reconstruction,
3 operation, use, maintenance, or furnishing;
- 4 (2) Section 238-3(k)--The value of air pollution control
5 facilities;
- 6 (3) Section 237-27.6--Amounts received by solid waste
7 processing, disposal, and electric generating facility
8 operators under sale and leaseback transactions with
9 political subdivisions that involve the facilities;
- 10 (4) Section 237-29--Gross income of qualified persons or
11 firms or nonprofits or limited distribution mortgagors
12 for certified or approved low-income housing projects;
- 13 (5) Section 238-3(j)--The value of property, services, or
14 contracting exempted by section 237-29, relating to
15 certified or approved housing projects;
- 16 (6) Section 431:7-208--Credit for low-income housing;
- 17 (7) Section 46-15.1(a)--Gross income from county low-
18 income housing projects; and
- 19 (8) Section 346-369--Compensation received by provider
20 agencies for homeless services or homeless facility
21 management.



1 §23-L Review for 2025 and every tenth year thereafter.

2 (a) The exemptions or exclusions under the general excise and
3 use taxes listed in subsection (c) shall be reviewed in 2025 and
4 every tenth year thereafter.

5 (b) The auditor shall submit the findings and
6 recommendations of the reviews to the legislature and governor
7 no later than twenty days prior to the convening of the
8 immediately following regular session.

9 (c) This section shall apply to the following:

10 (1) Section 237-29.5--Value or gross proceeds from
11 tangible personal property shipped out of State;

12 (2) Section 237-29.53--Value or gross income from
13 contracting or services performed for use outside the
14 State;

15 (3) Section 238-1, paragraph (9) of the definition of
16 "use"--The value of services or contracting imported
17 for resale, consumption, or use outside the State; and

18 (4) Section 237-29.55--Gross proceeds or gross income from
19 the sale of tangible personal property imported into
20 the State for subsequent resale.



1 §23-M Review for 2026 and every tenth year thereafter.

2 (a) The exemptions or exclusions under the general excise tax
3 listed in subsection (c) shall be reviewed in 2026 and every
4 tenth year thereafter.

5 (b) The auditor shall submit the findings and
6 recommendations of the reviews to the legislature and governor
7 no later than twenty days prior to the convening of the
8 immediately following regular session.

9 (c) This section shall apply to the following:

10 (1) Section 237-23(a)(3)--Fraternal benefit societies,
11 orders, or associations for the payment of benefits to
12 members;

13 (2) Section 237-23(a)(4)--Corporations, associations,
14 trusts, or societies:

15 (A) Organized and operated exclusively for religious,
16 charitable, scientific, or educational purposes;

17 (B) Operating senior citizens housing facilities
18 qualifying for loans under the United States
19 Housing Act of 1959, as amended;

20 (C) Operating legal service plans; or



- 1 (D) Operating or managing homeless facilities or
- 2 other programs for the homeless;
- 3 (3) Section 237-23(a)(5)--Business leagues, chambers of
- 4 commerce, boards of trade, civic leagues, agricultural
- 5 and horticultural organizations, and organizations
- 6 operated exclusively for the benefit of the community
- 7 or promotion of social welfare, including legal
- 8 service plans;
- 9 (4) Section 237-23(a)(6)--Hospitals, infirmaries, and
- 10 sanitararia;
- 11 (5) Section 237-23(a)(7)--Tax-exempt potable water
- 12 companies serving residential communities lacking
- 13 access to public utility water services;
- 14 (6) Section 237-23(a)(8)--Agricultural cooperative
- 15 associations incorporated under state or federal law;
- 16 (7) Section 237-23(a)(9)--Persons affected with Hansen's
- 17 disease and kokuas with respect to business within the
- 18 county of Kalawao;
- 19 (8) Section 237-23(a)(10)--Corporations, companies,
- 20 associations, or trusts organized for cemeteries; and
- 21 (9) Section 237-23(a)(11)--Nonprofit shippers."



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

4 "§237- Surcharge for exemption, exclusion, or credit.

5 (a) A taxpayer shall be assessed a surcharge if:

6 (1) The taxpayer files an annual return for a taxable year
7 under section 237-33; and

8 (2) The taxpayer's gross proceeds of sale or gross income
9 for that taxable year is reduced by an exemption,
10 exclusion, or credit listed under part of
11 chapter 23.

12 The amount of the surcharge shall be \$ per taxpayer
13 who meets the qualifications of paragraphs (1) and (2) or a
14 lesser amount established in accordance with section 23-B;
15 provided that if the surcharge amount for a taxpayer is greater
16 than the amount of the exemption, exclusion, or credit claimed
17 in the taxpayer's return, the taxpayer shall be charged a
18 surcharge equal to the amount of the exemption, exclusion, or
19 credit.

20 (b) The surcharge shall be:

21 (1) Added to the taxes remitted with the annual return; or



1 (2) Deducted from any tax refund or credit for the
2 taxpayer if the taxpayer has made excess tax payments
3 for that taxable year.

4 (c) All surcharge revenues shall be transmitted by the
5 director of taxation to the director of finance for deposit into
6 the audit revolving fund.

7 The director of taxation shall transmit the surcharge
8 revenues to the director of finance within thirty days of
9 receipt.

10 Upon receipt of the surcharge revenues from the director of
11 taxation, the director of finance shall immediately deposit the
12 surcharge revenues into the audit revolving fund.

13 (d) A person who is not required to file an annual return
14 for a taxable year shall not be assessed the surcharge, even if
15 the person benefited from an exemption, exclusion, or credit
16 listed under part of chapter 23."

17 SECTION 4. Chapter 238, Hawaii Revised Statutes, is
18 amended by adding a new section to be appropriately designated
19 and to read as follows:

20 "§238- Surcharge for exemption, exclusion, or credit.

21 (a) A taxpayer shall be assessed a surcharge if:



1 (1) The taxpayer files an annual return for a taxable year
2 under section 238-5(c); and

3 (2) The taxpayer's value of personal property, services,
4 or contracting used in the State for that taxable year
5 is reduced by an exemption, exclusion, or credit
6 listed under part of chapter 23.

7 The amount of the surcharge shall be \$ per taxpayer
8 who meets the qualifications of paragraphs (1) and (2) or a
9 lesser amount established in accordance with section 23-B;
10 provided that if the surcharge amount for a taxpayer is greater
11 than the amount of the exemption, exclusion, or credit claimed
12 in the taxpayer's return, the taxpayer shall be charged a
13 surcharge equal to the amount of the exemption, exclusion, or
14 credit.

15 (b) The surcharge shall be:

16 (1) Added to the taxes remitted with the annual return; or

17 (2) Deducted from any tax refund or credit for the
18 taxpayer if the taxpayer has made excess tax payments
19 under this chapter or chapter 237 for that taxable
20 year.



1 (c) All surcharge revenues shall be transmitted by the
2 director of taxation to the director of finance for deposit into
3 the audit revolving fund.

4 The director of taxation shall transmit the surcharge
5 revenues to the director of finance within thirty days of
6 receipt.

7 Upon receipt of the surcharge revenues from the director of
8 taxation, the director of finance shall immediately deposit the
9 surcharge revenues into the audit revolving fund.

10 (d) A person who is not required to file an annual return
11 under this chapter or chapter 237 for a taxable year shall not
12 be assessed the surcharge, even if the person benefited from an
13 exemption, exclusion, or credit listed under part of
14 chapter 23."

15 SECTION 5. Chapter 239, Hawaii Revised Statutes, is
16 amended by adding a new section to be appropriately designated
17 and to read as follows:

18 "§239- Surcharge for exemption, exclusion, or credit.

19 (a) A taxpayer shall be assessed a surcharge if:

20 (1) The taxpayer files an annual return for a taxable year
21 under section 239-4; and



1 (2) The taxpayer's gross income for that taxable year is
2 reduced by an exemption, exclusion, or credit listed
3 under part of chapter 23.

4 The amount of the surcharge shall be \$ per taxpayer
5 who meets the qualifications of paragraphs (1) and (2) or a
6 lesser amount established in accordance with section 23-B;
7 provided that if the surcharge amount for a taxpayer is greater
8 than the amount of the exemption, exclusion, or credit claimed
9 in the taxpayer's return, the taxpayer shall be charged a
10 surcharge equal to the amount of the exemption, exclusion, or
11 credit.

12 (b) The surcharge shall be:

13 (1) Added to the taxes remitted with the annual return; or

14 (2) Deducted from any tax refund or credit for the
15 taxpayer if the taxpayer has made excess tax payments
16 for that taxable year.

17 (c) All surcharge revenues shall be transmitted by the
18 director of taxation to the director of finance for deposit into
19 the audit revolving fund.



1 The director of taxation shall transmit the surcharge
2 revenues to the director of finance within thirty days of
3 receipt.

4 Upon receipt of the surcharge revenues from the director of
5 taxation, the director of finance shall immediately deposit the
6 surcharge revenues into the audit revolving fund.

7 (d) A person who is not required to file an annual return
8 for a taxable year shall not be assessed the surcharge, even if
9 the person benefited from an exemption, exclusion, or credit
10 listed under part of chapter 23."

11 SECTION 6. Chapter 431, Hawaii Revised Statutes, is
12 amended by adding a new section to article VII, part II, to be
13 appropriately designated and to read as follows:

14 "§431:7- Surcharge for exemption, exclusion, or credit.

15 (a) An insurer shall be assessed a surcharge if:

16 (1) The insurer files an annual return for a taxable year
17 under section 431:7-201; and

18 (2) The insurer claims an exemption, exclusion, or credit
19 listed under part of chapter 23.

20 The amount of the surcharge shall be \$ per insurer who
21 meets the qualifications of paragraphs (1) and (2) or a lesser



1 amount established in accordance with section 23-B; provided
2 that if the surcharge amount for an insurer is greater than the
3 amount of the exemption, exclusion, or credit claimed in the
4 insurer's return, the insurer shall be charged a surcharge equal
5 to the amount of the exemption, exclusion, or credit.

6 (b) The surcharge shall be:

7 (1) Added to the taxes remitted with the annual return; or

8 (2) Deducted from any tax refund or credit for the insurer
9 if the insurer has made excess tax payments for that
10 taxable year.

11 (c) All surcharge revenues shall be transmitted by the
12 director of taxation to the director of finance for deposit into
13 the audit revolving fund.

14 The director of taxation shall transmit the surcharge
15 revenues to the director of finance within thirty days of
16 receipt.

17 Upon receipt of the surcharge revenues from the director of
18 taxation, the director of finance shall immediately deposit the
19 surcharge revenues into the audit revolving fund.

20 (d) A person who is not required to file an annual return
21 for a taxable year shall not be assessed the surcharge, even if



1 the person benefited from an exemption, exclusion, or credit
2 listed under part _____ of chapter 23."

3 SECTION 7. Section 23-3.6, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "[+]§23-3.6[+] **Audit revolving fund.** (a) There is
6 established the audit revolving fund to be administered by the
7 office of the auditor, into which shall be deposited:

8 (1) Reimbursement moneys received by any department,
9 office, or agency of the State and its political
10 subdivisions for financial audits;

11 (2) Moneys received by the auditor from any department,
12 office, or agency of the State and its political
13 subdivisions for audit costs payable by special funds,
14 revolving funds, capital improvement funds, or trust
15 funds;

16 (3) Surcharge revenues collected by the director of
17 finance pursuant to sections 237- _____, 238- _____,
18 239- _____ and 431:7- _____ ;

19 [~~3~~] (4) Legislative appropriations; and

20 [~~4~~] (5) All interest and investment earnings credited to
21 the assets of the fund.



1 (b) Moneys in the audit revolving fund received pursuant
2 to subsections (a)(1) and (a)(2) shall be expended by the
3 auditor to conduct audits of the State's departments, offices,
4 agencies, and political subdivisions, audits of special,
5 revolving, capital improvement, or trust funds, and for the
6 services of certified public accountants contracted to conduct
7 such audits.

8 (c) Moneys in the audit revolving fund received pursuant
9 to subsections (a)(3) and (a)(5) shall be expended by the
10 auditor for the review of exemptions, exclusions, and credits
11 under the general excise tax, use tax, public service company
12 tax, and insurance premium tax as provided under part .

13 (d) Moneys in the audit revolving fund received from
14 legislative appropriations pursuant to subsection (a)(4) shall
15 be expended as specified by the legislature."

16 SECTION 8. The director of taxation shall commence
17 imposing and collecting the surcharge established under sections
18 237- , 238- , 239- , and 431:7- , Hawaii Revised
19 Statutes, in the 2016 taxable year.



1 After collection, the surcharge revenues shall be
 2 administered in accordance with sections 237- , 238- ,
 3 239- , and 431:7- , Hawaii Revised Statutes.

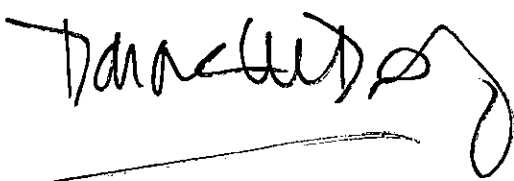
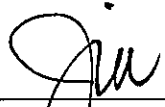
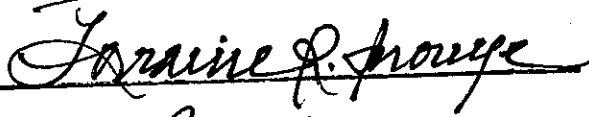
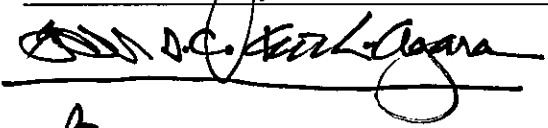

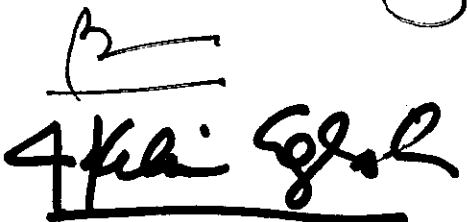
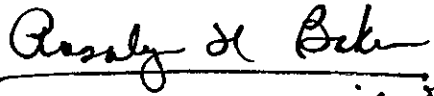


4 SECTION 9. There is appropriated out of the audit
 5 revolving fund of the State of Hawaii the sum of \$ or so
 6 much thereof as may be necessary for fiscal year 2016-2017 for
 7 the review of tax exemptions, exclusions, and credits in 2017 as
 8 provided under part of chapter 23, Hawaii Revised Statutes.

9 The sum appropriated shall be expended by the auditor for
 10 the purposes of this Act.

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

13 SECTION 11. This Act shall take effect on July 1, 2016.
 14

INTRODUCED BY:

S.B. NO. 2547

Report Title:

Tax Exemptions, Exclusions, and Credits; Auditor Review

Description:

Requires the Auditor to periodically review certain exemptions, exclusions, and credits under the general excise and use taxes, public service company tax, and insurance premium tax. Assesses a surcharge on taxpayers who file returns and benefit from an exemption, exclusion, or credit. Requires the deposit of the surcharge into the audit revolving fund.

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

