



GOV. MSG. NO. **736**

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

April 9, 2007

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fourth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on April 9, 2007, the following bill was signed into law:

HB1108 HD1

A BILL FOR AN ACT RELATING TO STATUTORY
REVISION: AMENDING OR REPEALING VARIOUS
PROVISIONS OF THE HAWAII REVISED STATUTES
AND THE SESSION LAWS OF HAWAII FOR THE
PURPOSE OF CORRECTING ERRORS AND
REFERENCES, CLARIFYING LANGUAGE, AND
DELETING OBSOLETE OR UNNECESSARY
PROVISIONS.
(ACT 009)

Sincerely,

A handwritten signature in black ink, appearing to read 'Linda Lingle'.

LINDA LINGLE

A BILL FOR AN ACT

RELATING TO STATUTORY REVISION: AMENDING OR REPEALING VARIOUS PROVISIONS OF THE HAWAII REVISED STATUTES AND THE SESSION LAWS OF HAWAII FOR THE PURPOSE OF CORRECTING ERRORS AND REFERENCES, CLARIFYING LANGUAGE, AND DELETING OBSOLETE OR UNNECESSARY PROVISIONS.

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

1 SECTION 1. Section 6E-11, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:
3 "(a) It shall be a civil and administrative violation for
4 any person to take, appropriate, excavate, injure, destroy, or
5 alter any historic property or aviation artifact located upon
6 the private lands of any owner thereof without the owner's
7 written permission being first obtained. It shall be a civil
8 and administrative violation for any person to take,
9 appropriate, excavate, injure, destroy, or alter any historic
10 property or aviation artifact located upon lands owned or
11 [+]controlled by the State or any of its political
12 subdivisions, [+] except as permitted by the department, or to
13 knowingly violate the conditions set forth in an approved
14 mitigation plan that includes monitoring and preservation
15 plans."



1 SECTION 2. Section 36-27, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§36-27 Transfers from special funds for central service**
4 **expenses.** Except as provided in this section, and
5 notwithstanding any other law to the contrary, from time to
6 time, the director of finance, for the purpose of defraying the
7 prorated estimate of central service expenses of government in
8 relation to all special funds, except the:

- 9 (1) Special out-of-school time instructional program fund
10 under section 302A-1310;
- 11 (2) School cafeteria special funds of the department of
12 education;
- 13 (3) Special funds of the University of Hawaii;
- 14 (4) State educational facilities improvement special fund;
- 15 (5) Convention center enterprise special fund under
16 section 201B-8;
- 17 (6) Special funds established by section 206E-6;
- 18 (7) Housing loan program revenue bond special fund;
- 19 (8) Housing project bond special fund;
- 20 (9) Aloha Tower fund created by section 206J-17;
- 21 (10) Funds of the employees' retirement system created by
22 section 88-109;



- 1 (11) Unemployment compensation fund established under
2 section 383-121;
- 3 (12) Hawaii hurricane relief fund established under chapter
4 431P;
- 5 (13) Hawaii health systems corporation special funds;
- 6 (14) Tourism special fund established under section
7 201B-11;
- 8 (15) Universal service fund established under chapter 269;
- 9 ~~[(16) Integrated tax information management systems special~~
10 ~~fund under section 231-3.2;~~
- 11 ~~(17)]~~ (16) Emergency and budget reserve fund under section
12 328L-3;
- 13 ~~[(18)]~~ (17) Public schools special fees and charges fund
14 under section 302A-1130(f);
- 15 ~~[(19)]~~ (18) Sport fish special fund under section 187A-9.5;
- 16 ~~[(20)]~~ (19) Neurotrauma special fund under section 321H-4;
- 17 ~~[(21)]~~ (20) Deposit beverage container deposit special fund
18 under section 342G-104;
- 19 ~~[(22)]~~ (21) Glass advance disposal fee special fund
20 established by section 342G-82;
- 21 ~~[(23)]~~ (22) Center for nursing special fund under section
22 ~~[+]~~ 304A-2163 ~~[+]~~;



1 [~~(24)~~] (23) Passenger facility charge special fund
2 established by section 261-5.5;

3 [~~(25)~~] (24) Solicitation of funds for charitable purposes
4 special fund established by section 467B-15;

5 [~~(26)~~] (25) Land conservation fund established by section
6 173A-5;

7 [~~(27)~~] (26) Court interpreting services revolving fund under
8 section 607-1.5;

9 [~~(28)~~] (27) Trauma system special fund under section 321-
10 22.5;

11 [~~(29)~~] (28) Hawaii cancer research special fund;

12 [~~(30)~~] (29) Community health centers special fund; and

13 [~~(31)~~] (30) Emergency medical services special fund[+];

14 shall deduct five per cent of all receipts of all other special
15 funds, which deduction shall be transferred to the general fund
16 of the State and become general realizations of the State. All
17 officers of the State and other persons having power to allocate
18 or disburse any special funds shall cooperate with the director
19 in effecting these transfers. To determine the proper revenue
20 base upon which the central service assessment is to be
21 calculated, the director shall adopt rules pursuant to chapter
22 91 for the purpose of suspending or limiting the application of



1 the central service assessment of any fund. No later than
2 twenty days prior to the convening of each regular session of
3 the legislature, the director shall report all central service
4 assessments made during the preceding fiscal year.[+]"

5 SECTION 3. Section 36-30, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

7 "(a) Each special fund, except the:

- 8 (1) Transportation use special fund established by section
9 261D-1;
- 10 (2) Special out-of-school time instructional program fund
11 under section 302A-1310;
- 12 (3) School cafeteria special funds of the department of
13 education;
- 14 (4) Special funds of the University of Hawaii;
- 15 (5) State educational facilities improvement special fund;
- 16 (6) Special funds established by section 206E-6;
- 17 (7) Aloha Tower fund created by section 206J-17;
- 18 (8) Funds of the employees' retirement system created by
19 section 88-109;
- 20 (9) Unemployment compensation fund established under
21 section 383-121;



- 1 (10) Hawaii hurricane relief fund established under chapter
2 431P;
- 3 (11) Convention center enterprise special fund established
4 under section 201B-8;
- 5 (12) Hawaii health systems corporation special funds;
- 6 (13) Tourism special fund established under section
7 201B-11;
- 8 (14) Universal service fund established under chapter 269;
- 9 ~~[(15) Integrated tax information management systems special~~
10 ~~fund under section 231-3.2;~~
- 11 ~~+(16)]~~ (15) Emergency and budget reserve fund under section
12 328L-3;
- 13 ~~[(17)]~~ (16) Public schools special fees and charges fund
14 under section 302A-1130(f);
- 15 ~~[(18)]~~ (17) Sport fish special fund under section 187A-9.5;
- 16 ~~[(19)]~~ (18) Neurotrauma special fund under section 321H-4;
- 17 ~~[(20)]~~ (19) Center for nursing special fund under section
18 ~~+~~304A-2163~~+~~;
- 19 ~~[(21)]~~ (20) Passenger facility charge special fund
20 established by section 261-5.5;
- 21 ~~[(22)]~~ (21) Court interpreting services revolving fund under
22 section 607-1.5;



1 ~~(+23)~~ (22) Trauma system special fund under section 321-
2 22.5;

3 ~~(+24)~~ (23) Hawaii cancer research special fund;

4 ~~(+25)~~ (24) Community health centers special fund; and

5 ~~(+26)~~ (25) Emergency medical services special fund~~(+)~~;

6 shall be responsible for its pro rata share of the
7 administrative expenses incurred by the department responsible
8 for the operations supported by the special fund concerned.~~(+)~~"

9 SECTION 4. Section 84-17, Hawaii Revised Statutes, is
10 amended by amending subsection (c) to read as follows:

11 "(c) The following persons shall file annually with the
12 state ethics commission a disclosure of financial interests:

13 (1) The governor, the lieutenant governor, the members of
14 the legislature, and delegates to the constitutional
15 convention; provided that delegates to the
16 constitutional convention shall only be required to
17 file initial disclosures;

18 (2) The directors and their deputies, the division chiefs,
19 the executive directors and the executive secretaries
20 and their deputies, the purchasing agents and the
21 fiscal officers, regardless of the titles by which the



- 1 foregoing persons are designated, of every state
2 agency and department;
- 3 (3) The permanent employees of the legislature and its
4 service agencies, other than persons employed in
5 clerical, secretarial, or similar positions;
- 6 (4) The administrative director of the State, and the
7 assistants in the office of the governor and the
8 lieutenant governor, other than persons employed in
9 clerical, secretarial, or similar positions;
- 10 (5) The hearings officers of every state agency and
11 department;
- 12 (6) The president, the vice presidents, assistant vice
13 presidents, the chancellors, and the provosts of the
14 University of Hawaii and its community colleges;
- 15 (7) The superintendent, the deputy superintendent, the
16 assistant superintendents, the complex area
17 superintendents, the state librarian, and the deputy
18 state librarian of the department of education;
- 19 (8) The administrative director and the deputy director of
20 the courts;
- 21 (9) The members of every state board or commission whose
22 original terms of office are for periods exceeding one



1 year and whose functions are not solely advisory;
2 ~~[provided that the governor's special advisory council~~
3 ~~for technology development established pursuant to~~
4 ~~section 27-42 not otherwise subject to this subsection~~
5 ~~shall be exempt from this subsection.}]~~

6 (10) Candidates for state elective offices, including
7 candidates for election to the constitutional
8 convention, provided that candidates shall only be
9 required to file initial disclosures; and

10 (11) The administrator and assistant administrator of the
11 office of Hawaiian affairs."

12 SECTION 5. Section 132D-16, Hawaii Revised Statutes, is
13 amended by amending subsection (c) to read as follows:

14 "(c) No permit shall be issued under this section unless
15 the applicant presents, at the applicant's option, either:

16 (1) A written certificate of an insurance carrier, which
17 has been issued to or for the benefit of the
18 applicant, or a policy providing for the payment of
19 damages in the amount of not less than \$5,000 for
20 injury to, or death of, any one person, and subject to
21 the foregoing limitation for one person; in the amount
22 of not less than \$10,000 for injury to, or death of,



1 two or more persons; and in the amount of not less
2 than \$5,000 for damage to property, caused by reason
3 of the authorized display and arising from any
4 tortious acts or negligence of the permittee, the
5 permittee's agents, employees, or subcontractors. The
6 certificate shall state that the policy is in full
7 force and effect and will continue to be in full force
8 and effect for not less than ten days after the date
9 of the display; or

- 10 (2) The bond of a surety company duly authorized to
11 transact business within the State, or a bond with not
12 less than two individual sureties who together have
13 assets in the State equal in value to not less than
14 twice the amount of the bond, or a deposit of cash, in
15 the amount of not less than \$10,000 conditioned upon
16 the payment of all damages that may be caused to any
17 person or property by reason of the authorized display
18 and arising from any tortious acts or negligence of
19 the permittee, the permittee's agents, employees, or
20 subcontractors. The security shall continue to be in
21 full force and effect for not less than ten days after
22 the date of the display.



1 The county may require coverage in amounts greater than the
2 minimum amounts set forth in paragraph (1) or (2) if deemed
3 necessary or desirable in consideration of such factors as the
4 location and scale of the display, the type of aerial devices,
5 [+]display[+] fireworks, or articles pyrotechnic to be used, and
6 the number of spectators expected."

7 SECTION 6. Section 134-2, Hawaii Revised Statutes, is
8 amended as follows:

9 1. By amending subsection (a) to read:

10 "(a) No person shall acquire the ownership of a firearm,
11 whether usable or unusable, serviceable or unserviceable, modern
12 or antique, registered under prior law or by a prior owner or
13 unregistered, either by purchase, gift, inheritance, bequest, or
14 in any other manner, whether procured in the State or imported
15 by mail, express, freight, or otherwise, until the person has
16 first procured from the chief of police of the county of the
17 person's place of business or, if there is no place of business,
18 the person's residence or, if there is neither place of business
19 nor residence, the person's place of sojourn, a permit to
20 acquire the ownership of a firearm as prescribed in this
21 section. When title to any firearm is acquired by inheritance
22 or bequest, the foregoing permit shall be obtained before taking



1 possession of a firearm; provided that upon presentation of a
2 copy of the death certificate of the owner making the bequest,
3 any heir or legatee may transfer the inherited or bequested
4 firearm directly to a dealer licensed under section 134-31 or
5 licensed by the United States Department of [~~the Treasury~~
6 Justice without complying with the requirements of this
7 section."

8 2. By amending subsection (e) to read:

9 "(e) The permit application form shall be signed by the
10 applicant and by the issuing authority. One copy of the permit
11 shall be retained by the issuing authority as a permanent
12 official record. Except for sales to dealers licensed under
13 section 134-31, or dealers licensed by the United States
14 Department of Justice, or law enforcement officers, or where a
15 license is granted under section 134-9, or where any firearm is
16 registered pursuant to section 134-3(a), no permit shall be
17 issued to an applicant earlier than fourteen calendar days after
18 the date of the application; provided that a permit shall be
19 issued or the application denied before the twentieth day from
20 the date of application. Permits issued to acquire any pistol
21 or revolver shall be void unless used within ten days after the
22 date of issue. Permits to acquire a pistol or revolver shall



1 require a separate application and permit for each transaction.
2 Permits issued to acquire any rifle or shotgun shall entitle the
3 permittee to make subsequent purchases of rifles or shotguns for
4 a period of one year from the date of issue without a separate
5 application and permit for each acquisition, subject to the
6 disqualifications under section 134-7 and subject to revocation
7 under section 134-13; provided that if a permittee is arrested
8 for committing a felony or any crime of violence or for the
9 illegal sale of any drug, the permit shall be impounded and
10 shall be surrendered to the issuing authority. The issuing
11 authority shall perform an inquiry on an applicant who is a
12 citizen of the United States by using the National Instant
13 Criminal Background Check System before any determination to
14 issue a permit or to deny an application is made. If the
15 applicant is not a citizen of the United States and may be
16 eligible to acquire a firearm under this chapter, the issuing
17 authority shall perform an inquiry on the applicant, by using
18 the National Instant Criminal Background Check System, to
19 include a check of the Immigration and Customs Enforcement
20 databases, [~~where the applicant is not a citizen of the United~~
21 ~~States,~~] before any determination to issue a permit or to deny
22 an application is made."



1 SECTION 7. Section 134-3, Hawaii Revised Statutes, is
2 amended by amending subsections (c) and (d) to read as follows:

3 "(c) Dealers licensed under section 134-31 or dealers
4 licensed by the United States Department of [~~the Treasury~~]
5 Justice shall register firearms pursuant to this section on
6 registration forms prescribed by the attorney general and shall
7 not be required to have the firearms physically inspected by the
8 chief of police at the time of registration.

9 (d) Registration shall not be required for:

- 10 (1) Any device that is designed to fire loose black powder
11 or that is a firearm manufactured before 1899;
- 12 (2) Any device not designed to fire or made incapable of
13 being readily restored to a firing condition; or
- 14 (3) All unserviceable firearms and destructive devices
15 registered with the Bureau of Alcohol, Tobacco, and
16 Firearms of the United States Department of [~~the~~
17 ~~Treasury~~] Justice pursuant to Title 27, Code of
18 Federal Regulations."

19 SECTION 8. Section 134-9, Hawaii Revised Statutes, is
20 amended by amending subsection (a) to read as follows:

21 "(a) In an exceptional case, when an applicant shows
22 reason to fear injury to the applicant's person or property, the



1 chief of police of the appropriate county may grant a license to
2 an applicant who is a citizen of the United States of the age of
3 twenty-one years or more or to a duly accredited official
4 representative of a foreign nation of the age of twenty-one
5 years or more to carry a pistol or revolver and ammunition
6 therefor concealed on the person within the county where the
7 license is granted. Where the urgency or the need has been
8 sufficiently indicated, the respective chief of police may grant
9 to an applicant of good moral character who is a citizen of the
10 United States of the age of twenty-one years or more, is engaged
11 in the protection of life and property, and is not prohibited
12 under section 134-7 from the ownership or possession of a
13 firearm, a license to carry a pistol or revolver and ammunition
14 therefor unconcealed on the person within the county where the
15 license is granted. The chief of police of the appropriate
16 county, or the chief's designated representative, shall perform
17 an inquiry on an applicant by using the National Instant
18 Criminal Background Check System, to include a check of the
19 Immigration and Customs Enforcement databases[7] where the
20 applicant is not a citizen of the United States, before any
21 determination to grant a license is made. Unless renewed, the
22 license shall expire one year from the date of issue."



1 SECTION 9. Section 195F-4, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) There is established a special fund within the state
4 treasury known as the forest stewardship fund which shall be used
5 as follows:

6 (1) Payments shall be made by the board pursuant to
7 agreements entered into with qualified landowners to
8 further the purposes of this chapter;

9 (2) Moneys collected from:

10 (A) The harvest of non-native forest products from
11 forest reserves;

12 (B) The harvest of native forest products from
13 degraded forests as defined in section 186-5.5,
14 within forest reserves;

15 (C) The sale of forest products found dead and lying
16 on the ground;

17 (D) The sale of tree seedlings from state nurseries;

18 (E) The sale of any other products or services, or
19 anything of value derived from forest reserves
20 not described above; or



1 (F) The imposition of fines or penalties for
2 violations of this chapter and chapters 183 and
3 185 [~~and 195F~~] or any rule adopted thereunder;
4 shall be used for: (i) [~~Replanting,~~] replanting,
5 managing, and maintaining designated timber management
6 areas; (ii) [~~Enhancing~~] enhancing the management of
7 public forest reserves with an emphasis on restoring
8 degraded koa forests; and (iii) [~~Developing~~] developing
9 environmental education and training programs
10 pertaining to sustainable forestry; provided that the
11 activities described in clauses (ii) and (iii) may not
12 be funded unless the activities described in approved
13 management plans pertaining to clause (i) are
14 adequately funded; and

15 (3) Moneys deposited into the fund as authorized by section
16 247-7 may also be used by the department to administer
17 the program and manage the forest reserve system."

18 SECTION 10. Section 211G-13, Hawaii Revised Statutes, is
19 amended by amending subsection (e) to read as follows:

20 "(e) In carrying out the mission of the corporation, as
21 authorized in this chapter, neither the corporation nor its
22 officers, board members, or employees shall be considered to be



1 broker-dealers, agents, investment advisors, or investment
 2 adviser representatives under chapter [~~485.~~] 485A. The tax
 3 credits issued or transferred pursuant to this chapter shall not
 4 be considered securities under chapter [~~485.~~] 485A."

5 SECTION 11. Section 235-51, Hawaii Revised Statutes, is
 6 amended by amending subsection (b) to read as follows:

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

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

12	If the taxable income is:	The tax shall be:
13	Not over \$3,000	1.40% of taxable income
14	Over \$3,000 but	\$42.00 plus 3.20% of
15	not over \$6,000	excess over \$3,000
16	Over \$6,000 but	\$138.00 plus 5.50% of
17	not over \$12,000	excess over \$6,000
18	Over \$12,000 but	\$468.00 plus 6.40% of
19	not over \$18,000	excess over \$12,000
20	Over [\$21,600] <u>\$18,000</u>	\$852.00 plus 6.80% of
21	but not over \$24,000	excess over \$18,000
22	Over \$24,000 but	\$1,260.00 plus 7.20% of



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

8 In the case of any taxable year beginning after
9 December 31, 2006:

10	If the taxable income is:	The tax shall be:
11	Not over \$3,600	1.40% of taxable income
12	Over \$3,600 but	\$50.00 plus 3.20% of
13	not over \$7,200	excess over \$3,600
14	Over \$7,200 but	\$166.00 plus 5.50% of
15	not over \$14,400	excess over \$7,200
16	Over \$14,400 but	\$562.00 plus 6.40% of
17	not over \$21,600	excess over \$14,400
18	Over \$21,600 but	\$1,022.00 plus 6.80% of
19	not over \$28,800	excess over \$21,600
20	Over \$28,800 but	\$1,512.00 plus 7.20% of
21	not over \$36,000	excess over [\$28,000]
22		<u>\$28,800</u>



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

7 SECTION 12. Section 235-110.7, Hawaii Revised Statutes, is
8 amended as follows:

9 1. By amending subsections (a) and (b) to read:

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

15 The amount of the tax credit shall be determined by the
16 application of the following rates against the cost of the
17 eligible depreciable tangible personal property used by the
18 taxpayer in a trade or business and placed in service within
19 Hawaii after December 31, 1987. For calendar years beginning
20 after: December 31, 1987, the applicable rate shall be three
21 per cent; December 31, 1988, and thereafter, the applicable rate
22 shall be four per cent [~~except that for the period January 1,~~



1 ~~1993, through December 31, 2002, and for eligible depreciable~~
2 ~~tangible personal property used in a trade or business that is~~
3 ~~purchased in a county in which the county general excise and use~~
4 ~~tax surcharge is in effect and placed in service in any county~~
5 ~~the applicable rate shall be four and one-half per cent]. For~~
6 taxpayers with fiscal taxable years, the applicable rate shall
7 be the rate for the calendar year in which the eligible
8 depreciable tangible personal property used in the trade or
9 business is placed in service within Hawaii.

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

16 In the case of eligible depreciable tangible personal
17 property for which a credit for sales or use taxes paid to
18 another state is allowable under section 238-3(i), the amount of
19 the tax credit allowed under this section shall not exceed the
20 amount of use tax[, ~~and for the period January 1, 1993, through~~
21 ~~December 31, 2002, the amount of the county general excise and~~



1 ~~use tax surcharge,~~] actually paid under chapter 238 relating to
2 such tangible personal property.

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

8 (b) ~~[If the tax credit is claimed by a taxpayer at the
9 rate of four and one-half per cent, and the tangible personal
10 property is purchased in a county in which the county general
11 excise and use tax surcharge is not in effect, there shall be
12 added to and become part of the tax liability of the taxpayer:~~

13 ~~(1) The amount of the tax credit claimed under this
14 section multiplied by three; or
15 (2) Ten per cent of the income tax liability for the
16 taxable year for which the income tax return is being
17 filed,~~

18 ~~whichever is greater.]~~

19 If the capital goods excise tax credit allowed under
20 subsection (a) exceeds the taxpayer's net income tax liability,
21 the excess of credit over liability shall be refunded to the
22 taxpayer; provided that no refunds or payment on account of the



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

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

9 2. By amending subsection (e) to read:

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

17 As used in this section:

18 "Cost" means (1) the actual invoice price of the tangible
19 personal property, or (2) the basis from which depreciation is
20 taken under section 167 (with respect to depreciation) or from
21 which a deduction may be taken under section 168 (with respect



1 to accelerated cost recovery system) of the Internal Revenue
2 Code of 1954, as amended, whichever is less.

3 "Eligible depreciable tangible personal property" is
4 section 38 property as defined by the operative provisions of
5 section 48 and having a depreciable life under section 167 or
6 for which a deduction may be taken under section 168 of the
7 federal Internal Revenue Code of 1954, as amended.

8 "Placed in service" means the earliest of the following
9 taxable years:

- 10 (1) The taxable year in which, under the:
 - 11 (A) Taxpayer's depreciation practice, the period for
 - 12 depreciation; or
 - 13 (B) Accelerated cost recovery system, a claim for
 - 14 recovery allowances; with respect to such
 - 15 property begins; or
- 16 (2) The taxable year in which the property is placed in a
- 17 condition or state of readiness and availability for a
- 18 specifically assigned function.

19 "Purchase" means an acquisition of property.

20 "Tangible personal property" means tangible personal
21 property which is placed in service within Hawaii after December
22 31, 1987, and the purchase or importation of which resulted in a



1 transaction which was subject to the imposition and payment of
2 tax at the rate of four per cent [~~except that for the period~~
3 ~~January 1, 1993, through December 31, 2002, and if the county~~
4 ~~general excise and use tax surcharge is in effect the tax rate~~
5 ~~shall be four and one-half per cent,~~] under chapter 237 or 238.
6 "Tangible personal property" does not include tangible personal
7 property which is an integral part of a building or structure or
8 tangible personal property used in a foreign trade zone, as
9 defined under chapter 212."

10 SECTION 13. Section 367D-8, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "[+]§367D-8[+] **Annual report.** The department of public
13 safety and the office of youth services shall submit an annual
14 report to the legislature no later than twenty days before the
15 convening of each regular session on the following areas:
16 program descriptions, type and costs of contracts made, name of
17 the private agency awarded each contract, and the success of
18 each contract in meeting program specifications. The report
19 shall detail the development of the comprehensive continuum of
20 care to address the gender-responsive needs of Hawaii's female
21 offenders and female adjudicated youth both in-state and abroad.
22 The report shall also highlight the existing gaps in the system



1 and include recommendations for resources needed to reach a
2 seamless continuum of care and other relevant information
3 concerning the creation of a gender-responsive environment for
4 female offenders and female adjudicated youth. [~~The first~~
5 ~~report shall be submitted no later than twenty days before the~~
6 ~~convening of the regular session of 2006.~~]"

7 SECTION 14. Section 412:3-201, Hawaii Revised Statutes, is
8 amended by amending subsection (b) to read as follows:

9 "(b) The application shall contain the following
10 information, unless waived by the commissioner:

- 11 (1) The proposed name of the financial institution;
- 12 (2) The specific location of its principal office,
13 branches, agencies, and support facilities, and any
14 lease agreements for such principal office, branches,
15 agencies, and support facilities;
- 16 (3) Financial statements, employment history, education,
17 management experience, and other biographical
18 information for all applicants, organizers, proposed
19 executive officers, and directors of the financial
20 institution;
- 21 (4) The name and address of each proposed subscriber of
22 capital stock in the financial institution;



1 (5) The proposed capital plan, if capital has not been
2 fully raised, that shall include:

3 (A) A description of any stock options, debentures,
4 and stock warrants offered or proposed to be
5 offered to any person; and

6 (B) Any stock option plan;

7 (6) The proposed capital stock solicitation plan, if
8 subscriptions for capital stock will be solicited,
9 that shall include:

10 (A) Information regarding the solicitation plan by
11 which the applicant and the proposed financial
12 institution propose to conduct the solicitation
13 of subscribers;

14 (B) Information regarding the classes of shares,
15 respective quantities of shares for each class,
16 and the subscription price of each class of
17 stock;

18 (C) A specimen subscription contract or purchase
19 agreement and other related documents to be
20 executed by subscribers;



- 1 (D) Any underwriting agreement or other agreement for
2 the purchase or distribution of the capital
3 stock;
- 4 (E) Any escrow agreements or other agreement for the
5 holding of the purchase proceeds of the capital
6 stock;
- 7 (F) Proposed advertising materials;
- 8 (G) If the offer and sale of the capital stock is
9 subject to the Securities Act of 1933 and
10 regulations thereunder, a copy of the
11 registration statement most recently filed with
12 the federal Securities and Exchange Commission or
13 any other notices or other filings in lieu of
14 registration required or permitted by that Act or
15 regulation and any subsequent amendments thereto;
- 16 (H) If the offer and sale of the capital stock is
17 subject to chapter [~~485~~] 485A, a copy of the
18 registration or qualification statement most
19 recently filed with the commissioner of
20 securities and any subsequent amendments thereto;
21 and



- 1 (I) If the offer and sale of the capital stock is not
2 subject to the Securities Act of 1933 or chapter
3 [~~485,~~] 485A, whether exempted by law or
4 regulation or otherwise, a copy of the most
5 recent version of any prospectus, offering
6 memorandum, offering circular, or other offering
7 document proposed to be delivered to prospective
8 subscribers to the capital stock, and any
9 subsequent amendments thereto;
- 10 (7) The financial institution's proposed policies
11 concerning loans and concentrations of credit, asset
12 and liability management, conflicts of interest,
13 investments, community reinvestment, bank secrecy,
14 anti-money laundering, and customer identification;
- 15 (8) The financial institution's business plan for the
16 first three years of operations;
- 17 (9) Financial projections regarding the financial
18 institution's profitability for the first three years
19 of operations;
- 20 (10) A market study or letters of support evidencing the
21 need and advisability of granting authority to
22 organize a financial institution;



- 1 (11) Except for trust companies, evidence that the
2 financial institution has applied for federal deposit
3 insurance from the Federal Deposit Insurance
4 Corporation or other appropriate federal deposit
5 insurer;
- 6 (12) Evidence that the financial institution has applied
7 for fidelity bonds and other insurance appropriate to
8 its size and operations, including the types and the
9 amounts of coverage, and the respective deductible
10 amounts, from insurance companies licensed in the
11 United States;
- 12 (13) Evidence that the proposed directors and executive
13 officers of the financial institution have the
14 financial ability, responsibility, and experience to
15 engage in the business of a financial institution;
- 16 (14) The employment agreements for all proposed executive
17 officers of the financial institution;
- 18 (15) The proposed articles of incorporation and bylaws of
19 the financial institution;
- 20 (16) A description of any existing or proposed service
21 corporation, affiliate, or subsidiary; and



1 (17) Any other information that the commissioner may
2 require."

3 SECTION 15. Section 412:3-202, Hawaii Revised Statutes, is
4 amended to read as follows:

5 **"§412:3-202 Additional requirements for holding company.**

6 An applicant for the organization of a Hawaii financial
7 institution that will be a subsidiary of a holding company shall
8 furnish the commissioner with the following additional
9 information regarding the holding company, unless waived by the
10 commissioner:

11 (1) If the holding company is a corporation, a certificate
12 from the incorporating jurisdiction indicating that
13 the corporation was properly organized under
14 applicable corporate law, and that it is otherwise in
15 good standing;

16 (2) Its existing and proposed affiliates and subsidiaries,
17 and the extent and nature of its control over the
18 operations of the proposed financial institution;

19 (3) Financial statements, employment history, education,
20 management experience, and other biographical
21 information for all of its executive officers and
22 directors;



- 1 (4) The name and address of each shareholder or each
2 proposed subscriber of capital stock;
- 3 (5) The proposed capital plan, if capital has not been
4 fully raised, that shall include:
- 5 (A) A description of any stock options, debentures,
6 and stock warrants offered or proposed to be
7 offered to any person; and
- 8 (B) Any stock option plan;
- 9 (6) The proposed capital stock solicitation plan, if
10 subscriptions for capital stock will be solicited,
11 that shall include:
- 12 (A) Information regarding the solicitation plan by
13 which the applicant and the proposed holding
14 company propose to conduct the solicitation of
15 subscribers;
- 16 (B) Information regarding the classes of shares,
17 respective quantities of shares for each class,
18 and the subscription price of each class of
19 stock;
- 20 (C) A specimen subscription contract or purchase
21 agreement and other related documents to be
22 executed by subscribers;



- 1 (D) Any underwriting agreement or other agreement for
2 the purchase or distribution of the capital
3 stock;
- 4 (E) Any escrow agreements or other agreement for the
5 holding of the purchase proceeds of the capital
6 stock;
- 7 (F) Proposed advertising materials;
- 8 (G) If the offer and sale of the capital stock is
9 subject to the Securities Act of 1933 and
10 regulations thereunder, a copy of the
11 registration statement most recently filed with
12 the federal Securities and Exchange Commission or
13 any other notices or other filings in lieu of
14 registration required or permitted by that Act or
15 regulation and any subsequent amendments thereto;
- 16 (H) If the offer and sale of the capital stock is
17 subject to chapter [~~485~~] 485A, a copy of the
18 registration or qualification statement most
19 recently filed with the commissioner of
20 securities and any subsequent amendments thereto;
21 and



1 (I) If the offer and sale of the capital stock is not
2 subject to the Securities Act of 1933 or chapter
3 [~~485,~~ 485A, whether exempted by law or
4 regulation or otherwise, a copy of the most
5 recent version of any prospectus, offering
6 memorandum, offering circular, or other offering
7 document proposed to be delivered to prospective
8 subscribers to the capital stock, and any
9 subsequent amendments thereto;

10 (7) The articles of incorporation and bylaws of the
11 holding company;

12 (8) Evidence that it has or will have the financial
13 ability, responsibility, and experience to engage in
14 the business of a financial institution holding
15 company;

16 (9) The employment agreements for all executive officers
17 of the holding company; and

18 (10) Any other information that the commissioner may
19 require."

20 SECTION 16. Section 412:3-206, Hawaii Revised Statutes, is
21 amended by amending subsection (e) to read as follows:



1 "(e) The applicant and the proposed Hawaii financial
2 institution shall not solicit subscriptions for the capital
3 stock of the Hawaii financial institution until the written
4 decision and order granting the application for preliminary
5 approval to organize has been issued and the articles of
6 incorporation have been accepted for filing by the director of
7 commerce and consumer affairs. The approval shall not
8 constitute a determination that the applicant has complied with
9 chapter ~~[485]~~ 485A or any other state or federal law."

10 SECTION 17. Section 417E-1, Hawaii Revised Statutes, is
11 amended by amending the definition of "broker-dealer" to read as
12 follows:

13 "Broker-dealer" means a ~~["dealer"]~~ "broker-dealer" as
14 defined in section ~~[485-1.]~~ 485A-102."

15 SECTION 18. Section 706-606.2, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "~~[+]§706-606.2[+]~~ **Special sentencing considerations for**
18 **arson; other actions not prohibited.** (1) In addition to any
19 other penalty imposed, a person convicted of arson involving
20 fire set to brush, grass, vegetation on the land resulting in
21 damage to ~~[10,000]~~ ten thousand square feet of property, may be
22 required to:



1 (a) Pay any costs associated with extinguishing the fire;
2 and

3 (b) Perform community service work in the region in which
4 the property damage occurred.

5 With regard to any [+]fine[+] or monetary penalty that may be
6 imposed on a minor convicted or adjudicated for an offense of
7 arson, the parents or legal guardians of the minor shall be
8 liable for the percentage of costs associated with extinguishing
9 the fire based upon the apportionment of fire damage to real or
10 personal property caused by the minor as a result of committing
11 the offense of arson, regardless of whether the property is
12 publicly or privately owned.

13 (2) Nothing in this section shall prohibit a separate
14 criminal action being brought by the State or a civil action
15 being brought by the State or a third party for conduct that
16 constitutes an offense of arson."

17 SECTION 19. Section 707-711, Hawaii Revised Statutes, is
18 amended by amending subsection (1) to read as follows:

19 "(1) A person commits the offense of assault in the second
20 degree if:

21 (a) The person intentionally or knowingly causes
22 substantial bodily injury to another;



- 1 (b) The person recklessly causes serious or substantial
- 2 bodily injury to another person;
- 3 (c) The person intentionally or knowingly causes bodily
- 4 injury to a correctional worker, as defined in section
- 5 710-1031(2), who is engaged in the performance of duty
- 6 or who is within a correctional facility;
- 7 (d) The person intentionally or knowingly causes bodily
- 8 injury to another person with a dangerous instrument;
- 9 or
- 10 (e) The person intentionally or knowingly causes bodily
- 11 injury to an educational worker who is engaged in the
- 12 performance of duty or who is within an educational
- 13 facility. For the purposes of this paragraph,
- 14 "educational worker" means: any administrator,
- 15 specialist, counselor, teacher, or employee of the
- 16 department of education [†]or[†] an employee of a
- 17 charter school; a person who is a volunteer in a
- 18 school program, activity, or function that is
- 19 established, sanctioned, or approved by the department
- 20 of education; or a person hired by the department of
- 21 education on a contractual basis and engaged in
- 22 carrying out an educational function."



1 SECTION 20. Section 27-42, Hawaii Revised Statutes, is
2 repealed.

3 ~~["§27-42 Governor's special advisory council for~~
4 ~~technology development; establishment; appointment, number, and~~
5 ~~term of members; duties. (a) There is established within the~~
6 ~~office of the governor, for administrative purposes, an advisory~~
7 ~~council to be known as the governor's special advisory council~~
8 ~~for technology development, that shall review and make~~
9 ~~recommendations on matters relating to the marketing and~~
10 ~~promotion of Hawaii as a location for high technology companies.~~
11 ~~The council shall be composed of at least eleven but no more~~
12 ~~than twenty-five members appointed not subject to section 26-34,~~
13 ~~and shall include representatives of the high technology~~
14 ~~industry, business leaders, educators, government leaders, and~~
15 ~~legislators.~~

16 ~~(b) The members shall be appointed by the governor for~~
17 ~~four years, except that the terms of the members first appointed~~
18 ~~shall be for two and four years, respectively, as designated by~~
19 ~~the governor at the time of appointment. The council shall~~
20 ~~elect a chairperson from among its members.~~

21 ~~(c) In appointing members, the governor shall select~~
22 ~~persons who have knowledge of the high technology industry, the~~



1 ~~educational needs of the industry, or in the marketing and~~
2 ~~promotion of high technology industries. The members of the~~
3 ~~council shall serve without compensation but shall be reimbursed~~
4 ~~for expenses, including travel expenses, necessary for the~~
5 ~~performance of their duties.~~

6 ~~(d) The council shall assist the special advisor for~~
7 ~~technology development in developing and coordinating the~~
8 ~~marketing and promotion of the high technology industry in~~
9 ~~Hawaii.~~

10 ~~(e) In carrying out the duties of this section, the~~
11 ~~council shall seek and use any available funding sources,~~
12 ~~including grant moneys.~~

13 ~~(f) The council shall develop, establish, and implement~~
14 ~~ethics and conflict of interest guidelines for its members.~~

15 ~~(g) This section is repealed on December 31, 2005."]~~

16 SECTION 21. Section 231-3.2, Hawaii Revised Statutes, is
17 repealed.

18 [~~"§231-3.2 Integrated tax information management systems~~
19 ~~special fund.~~ (a) ~~There is established in the state treasury~~
20 ~~the integrated tax information management systems special fund~~
21 ~~into which shall be deposited general excise tax revenues as~~
22 ~~provided by section 237-31. The director of taxation may retain~~



1 ~~and deposit the amounts necessary to meet the obligations of the~~
2 ~~integrated tax information management systems performance-based~~
3 ~~contract. The amounts transferred by the director of taxation~~
4 ~~to the integrated tax information management systems special~~
5 ~~fund for a fiscal year shall be limited to the amounts~~
6 ~~appropriated by the legislature.~~

7 ~~(b) Moneys in the fund shall be expended by the department~~
8 ~~to pay for the integrated tax information management systems~~
9 ~~performance-based contracts authorized by Act 273, Session Laws~~
10 ~~of Hawaii 1996.~~

11 ~~(c) The department shall submit an annual report to the~~
12 ~~legislature no later than twenty days prior to the convening of~~
13 ~~each regular session, providing an accounting of the receipts~~
14 ~~of, and expenditures from, the fund.~~

15 ~~(d) This section shall be repealed on July 1, 2005."]~~

16 SECTION 22. Section 231-8.6, Hawaii Revised Statutes, is
17 repealed.

18 ~~["§231-8.6] Hawaii Internet Tax Freedom Act. (a) No~~
19 ~~discriminatory tax shall be imposed under chapter 235 (relating~~
20 ~~to income tax), chapter 237 (relating to the general excise~~
21 ~~tax), or chapter 238 (relating to the use tax) on electronic~~
22 ~~commerce or Internet access.~~



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~~(b) As used in this section "discriminatory tax" means:~~

~~(1) Any tax imposed by the State or county on electronic commerce that:~~

~~(A) Is not generally imposed and legally collectible by the State or county on transactions involving similar property, goods, services, or information accomplished through other means;~~

~~(B) Is not generally imposed and legally collectible at the same rate by such State or county on transactions involving similar property, goods, services, or information accomplished through other means;~~

~~(C) Imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving similar property, goods, services, or information accomplished through other means;~~

~~(D) Establishes a classification of Internet access service providers or online service providers for purposes of establishing a higher tax rate to be imposed on those providers than the tax rate generally applied to providers of similar~~



1 ~~information services delivered through other~~
2 ~~means; or~~

3 ~~(2) Any tax imposed by the State or county if:~~

4 ~~(A) The sole ability to access a site on a remote~~
5 ~~seller's out-of-state computer server is~~
6 ~~considered a factor in determining a remote~~
7 ~~seller's tax collection obligation; or~~

8 ~~(B) A provider of Internet access service or online~~
9 ~~services is deemed to be the agent of a remote~~
10 ~~seller for determining tax collection obligations~~
11 ~~solely as a result of:~~

12 ~~(i) The display of a remote seller's information~~
13 ~~or content on the out-of-state computer~~
14 ~~server or a provider of Internet access~~
15 ~~service or online services; or~~

16 ~~(ii) The processing of orders through the out-of-~~
17 ~~state computer server of a provider of~~
18 ~~Internet access service or online services.~~

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

20 ~~"Electronic commerce" means any transaction conducted over~~
21 ~~the Internet or through Internet access, comprising the sale,~~
22 ~~lease, license, offer, or delivery of property, goods, services,~~



1 ~~or information, whether or not for consideration, and includes~~
2 ~~the provision of Internet access.~~

3 ~~"Internet" means collectively the myriad of computer and~~
4 ~~telecommunications facilities, including equipment and operating~~
5 ~~software that comprise the interconnected world-wide network of~~
6 ~~networks that employ the Transmission Control Protocol/Internet~~
7 ~~Protocol, or any predecessor or successor protocols to that~~
8 ~~protocol, to communicate information of all kinds by wire or~~
9 ~~radio.~~

10 ~~"Internet access" means a service or license that enables~~
11 ~~users to access content, information, electronic mail, or other~~
12 ~~services or licenses offered over the Internet, and may also~~
13 ~~include access to proprietary content, information, and other~~
14 ~~services or licenses as part of a package of services or~~
15 ~~licenses offered to users. The term does not include~~
16 ~~telecommunications service as defined in section 269-1.~~

17 ~~(d) This section shall not apply to taxable years~~
18 ~~beginning after December 31, 2005."]~~

19 SECTION 23. Section 235-110.4, Hawaii Revised Statutes, is
20 repealed.

21 ~~["§235-110.4 Hotel construction and remodeling tax credit.~~

22 ~~(a) There shall be allowed to each taxpayer subject to the~~



1 ~~taxes imposed by this chapter and chapter 237D, an income tax~~
2 ~~credit, which shall be deductible from the taxpayer's net income~~
3 ~~tax liability, if any, imposed by this chapter for the taxable~~
4 ~~year in which the credit is properly claimed.~~

5 ~~The amount of the credit shall be four per cent of the~~
6 ~~construction or renovation costs incurred during the taxable~~
7 ~~year for each qualified hotel facility located in Hawaii, and~~
8 ~~shall not include the construction or renovation costs for which~~
9 ~~another credit was claimed under this chapter for the taxable~~
10 ~~year.~~

11 ~~In the case of a partnership, S corporation, estate, trust,~~
12 ~~association of apartment owners of a qualified hotel facility,~~
13 ~~time share owners association, or any developer of a time share~~
14 ~~project, the tax credit allowable is for construction or~~
15 ~~renovation costs incurred by the entity for the taxable year.~~
16 ~~The cost upon which the tax credit is computed shall be~~
17 ~~determined at the entity level. Distribution and share of~~
18 ~~credit shall be determined pursuant to section 235-110.7(a).~~

19 ~~If a deduction is taken under section 179 (with respect to~~
20 ~~election to expense depreciable business assets) of the Internal~~
21 ~~Revenue Code, no tax credit shall be allowed for that portion of~~



1 ~~the construction or renovation cost for which the deduction is~~
2 ~~taken.~~

3 ~~The basis of eligible property for depreciation or~~
4 ~~accelerated cost recovery system purposes for state income taxes~~
5 ~~shall be reduced by the amount of credit allowable and claimed.~~
6 ~~In the alternative, the taxpayer shall treat the amount of the~~
7 ~~credit allowable and claimed as a taxable income item for the~~
8 ~~taxable year in which it is properly recognized under the method~~
9 ~~of accounting used to compute taxable income.~~

10 ~~(b) The credit allowed under this section shall be claimed~~
11 ~~against the net income tax liability for the taxable year.~~

12 ~~(c) If the tax credit under this section exceeds the~~
13 ~~taxpayer's income tax liability, the excess of credit over~~
14 ~~liability shall be refunded to the taxpayer, provided that no~~
15 ~~refunds or payment on account of the tax credits allowed by this~~
16 ~~section shall be made for amounts less than \$1. All claims for~~
17 ~~a tax credit under this section shall be filed on or before the~~
18 ~~end of the twelfth month following the close of the taxable year~~
19 ~~for which the credit may be claimed. Failure to comply with the~~
20 ~~foregoing provision shall constitute a waiver of the right to~~
21 ~~claim the credit.~~



1 ~~(d) The director of taxation shall prepare any forms that~~
2 ~~may be necessary to claim a credit under this section. The~~
3 ~~director may also require the taxpayer to furnish information to~~
4 ~~ascertain the validity of the claim for credit made under this~~
5 ~~section and may adopt rules necessary to effectuate the purposes~~
6 ~~of this section pursuant to chapter 91.~~

7 ~~(e) The tax credit allowed under this section shall be~~
8 ~~available for taxable years beginning after December 31, 1998,~~
9 ~~and shall not be available for taxable years beginning after~~
10 ~~December 31, 2005.~~

11 ~~(f) To qualify for the income tax credit, the taxpayer~~
12 ~~shall be in compliance with all applicable federal, state, and~~
13 ~~county statutes, rules, and regulations.~~

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

15 ~~"Construction or renovation cost" means any costs incurred~~
16 ~~after December 31, 1998, for plans, design, construction, and~~
17 ~~equipment related to new construction, alterations, or~~
18 ~~modifications to a qualified hotel facility.~~

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



1 ~~"Qualified hotel facility" means a hotel/hotel-condo as~~
2 ~~defined in section 486K-1, and includes a time share facility or~~
3 ~~project.~~

4 ~~"Taxpayer" means a taxpayer under this chapter, and~~
5 ~~includes:~~

6 ~~(1) Association of apartment owners; or~~

7 ~~(2) Time share owners association.~~

8 ~~(h) No taxpayer that claims a credit under this section~~
9 ~~shall claim a credit under chapter 235D."]~~

10 SECTION 24. Section 235-110.45, Hawaii Revised Statutes,
11 is repealed.

12 ~~"[§235-110.45] Residential construction and remodeling~~
13 ~~tax credit. (a) There shall be allowed to each taxpayer who is~~
14 ~~the owner, developer, or lessee of residential real property,~~
15 ~~subject to the taxes imposed by this chapter, a residential~~
16 ~~construction and remodeling tax credit that shall be deductible~~
17 ~~from the taxpayer's net income tax liability, if any, imposed by~~
18 ~~this chapter for the taxable year in which the credit is~~
19 ~~properly claimed. The amount of the tax credit claimed under~~
20 ~~this section by the taxpayer in all years for which the credit~~
21 ~~is available shall be limited to four per cent of the~~
22 ~~residential construction or remodeling costs incurred during the~~



1 ~~taxable year for which the credit is claimed; provided that the~~
2 ~~costs shall not exceed \$250,000 in the aggregate for each~~
3 ~~residential unit; and that the costs are incurred before July 1,~~
4 ~~2003.~~

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

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

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



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

3 ~~(b) The credit allowed under this section shall be claimed~~
4 ~~against the net income tax liability, if any, imposed by this~~
5 ~~chapter for the taxable year in which the tax credit is properly~~
6 ~~claimed.~~

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

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



1 ~~(e) The tax credit allowed under this section shall be~~
2 ~~available for taxable years beginning after December 31, 2000,~~
3 ~~and shall not be available for taxable years beginning after~~
4 ~~December 31, 2003.~~

5 ~~(f) To qualify for the income tax credit, the taxpayer~~
6 ~~shall be in compliance with all applicable federal, state, and~~
7 ~~county statutes, rules, and regulations.~~

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

9 ~~"Construction or remodeling cost" means any costs incurred~~
10 ~~after December 31, 2000, for plans, design, construction, and~~
11 ~~equipment that is permanently affixed to the building or~~
12 ~~structure related to new construction, alterations, or~~
13 ~~modifications to a residential apartment unit or house, and~~
14 ~~shall not include any costs for which another credit was claimed~~
15 ~~under this chapter.~~

16 ~~"Net income tax liability" means income tax liability~~
17 ~~reduced by all other credits allowed under this chapter."]~~

18 SECTION 25. Section 235-110.92, Hawaii Revised Statutes,
19 is repealed.

20 ~~["§235-110.92] Drought mitigating water storage facility;~~
21 ~~income tax credit. (a) There shall be allowed to each eligible~~
22 ~~taxpayer subject to the taxes imposed by this chapter, an income~~



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

5 ~~The amount of the credit shall be four per cent of the~~
6 ~~qualifying costs incurred and paid by the eligible taxpayer~~
7 ~~during the taxable year for each qualified water storage~~
8 ~~facility in the State, and shall not include construction or~~
9 ~~repair costs for which another credit was claimed under this~~
10 ~~chapter for the taxable year.~~

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

17 ~~If a deduction is taken under section 179 (with respect to~~
18 ~~election to expense depreciable business assets) of the Internal~~
19 ~~Revenue Code, no tax credit shall be allowed for that portion of~~
20 ~~the construction or repair costs for which the deduction is~~
21 ~~taken.~~



1 ~~The basis of eligible property for depreciation or~~
2 ~~accelerated cost recovery system purposes for state income taxes~~
3 ~~shall be reduced by the amount of credit allowable and claimed.~~
4 ~~In the alternative, the taxpayer shall treat the amount of the~~
5 ~~credit allowable and claimed as taxable income for the taxable~~
6 ~~year in which it is properly recognized under the method of~~
7 ~~accounting used to compute taxable income.~~

8 ~~(b) The credit allowed under this section shall be claimed~~
9 ~~against the net income tax liability for the taxable year.~~

10 ~~(c) If the tax credit under this section exceeds the~~
11 ~~eligible taxpayer's income tax liability, the excess of the~~
12 ~~credits over liability shall be refunded to the taxpayer;~~
13 ~~provided that no refunds or payment on account of the tax credit~~
14 ~~allowed by this section shall be made for amounts less than \$1.~~
15 ~~All claims, including any amended claims, for a tax credit under~~
16 ~~this section shall be filed on or before the end of the twelfth~~
17 ~~month following the close of the taxable years for which the~~
18 ~~credit may be claimed. Failure to comply with the foregoing~~
19 ~~provision shall constitute a waiver of the right to claim the~~
20 ~~credit.~~

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



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

5 ~~(e) The credit allowed under this section shall be~~
6 ~~available for taxable years beginning after December 31, 2000,~~
7 ~~and shall not be available for taxable years beginning after~~
8 ~~December 31, 2005.~~

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

10 ~~"Eligible taxpayer" means a taxpayer who:~~

11 ~~(1) Is a farmer or rancher; and~~

12 ~~(2) Is not claimed or is not otherwise eligible to be~~
13 ~~claimed as a dependent by another taxpayer for Hawaii~~
14 ~~state income tax purposes.~~

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

17 ~~"Qualified water storage facility" means a water storage~~
18 ~~facility that is part of a conservation plan approved by the~~
19 ~~local soil and water conservation district.~~

20 ~~"Qualifying costs" means any cost incurred and paid by the~~
21 ~~taxpayer after December 31, 2000, for the new construction of a~~
22 ~~qualified water storage facility or the repair or reconstruction~~



1 ~~of an existing qualified water storage facility, including the~~
2 ~~costs of new equipment related to the construction or repair of~~
3 ~~the new or existing qualified water storage facility, but does~~
4 ~~not include amounts received through grant or subsidy from any~~
5 ~~federal or state government."]~~

6 SECTION 26. Section 237-29.65, Hawaii Revised Statutes, is
7 repealed.

8 ~~["§237-29.65] Exemption for public Internet data centers.~~

9 ~~(a) This chapter shall not apply to the gross income or gross~~
10 ~~proceeds received by a public Internet data center.~~

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

12 ~~"Compensated use by the public" means use of equipment,~~
13 ~~maintenance of equipment, and rental of space in a public~~
14 ~~Internet data center.~~

15 ~~"Public Internet data center" means a facility available~~
16 ~~for compensated use by the public and designed to:~~

17 ~~(1) House data servers;~~

18 ~~(2) Operate on a twenty-four hour, seven-day-a-week basis;~~

19 ~~(3) Have redundant systems for electricity, air~~

20 ~~conditioning, fire suppression, and security; and~~



1 ~~(4) Provide services such as bandwidth, co-location, data~~
2 ~~backup, complex web hosting, and aggregation for~~
3 ~~application service providers.~~

4 ~~(c) This section shall apply to gross income or gross~~
5 ~~proceeds received after June 30, 2001, but not after December~~
6 ~~31, 2005."]~~

7 SECTION 27. Section 237-29.75, Hawaii Revised Statutes, is
8 repealed.

9 ~~["**[§237-29.75] Exemption for sale of net operating loss by**~~
10 ~~**qualified high technology business.** Effective January 1, 2001,~~
11 ~~there shall be exempted from the measure of taxes imposed by~~
12 ~~this chapter all of the value or gross income derived from the~~
13 ~~sale of a net operating loss by a qualified high technology~~
14 ~~business defined in section 235-7.3 or by any partner, member,~~
15 ~~or shareholder of a qualified high technology business in the~~
16 ~~case of partnerships, limited liability partnerships, limited~~
17 ~~liability companies classified as partnerships, and S~~
18 ~~corporations.~~

19 ~~This section shall be repealed on December 31, 2005."]~~

20 SECTION 28. Section 239-13, Hawaii Revised Statutes, is
21 repealed.



1 ~~["§239-13] Exemption for public Internet data centers.~~

2 ~~(a) This chapter shall not apply to the gross income or gross~~
3 ~~proceeds received by a public Internet data center.~~

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

5 ~~"Compensated use by the public" means use of equipment,~~
6 ~~maintenance of equipment, and rental of space in a public~~
7 ~~Internet data center.~~

8 ~~"Public Internet data center" means a facility available~~
9 ~~for compensated use by the public and designed to:~~

10 ~~(1) House data servers;~~

11 ~~(2) Operate on a twenty-four-hour, seven-day-a-week basis;~~

12 ~~(3) Have redundant systems for electricity, air~~
13 ~~conditioning, fire suppression, and security; and~~

14 ~~(4) Provide services such as bandwidth, co-location, data~~
15 ~~backup, complex web hosting, and aggregation for~~
16 ~~application service providers.~~

17 ~~(c) This section shall apply to gross income received~~
18 ~~after June 30, 2001, but not after December 31, 2005."]~~

19 SECTION 29. Act 184, Session Laws of Hawaii 2006, is
20 amended by amending the prefatory language in section 3 to read
21 as follows:



1 "SECTION 3. Section 414-64, Hawaii Revised Statutes, is
2 amended by amending subsections (b) and [~~d~~] (c) to read as
3 follows:"

4 SECTION 30. This Act shall be amended to conform to all
5 other acts passed by the legislature during this regular session
6 of 2007, whether enacted before or after the effective date of
7 this Act, unless the other acts specifically provide otherwise.

8 SECTION 31. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 32. This Act shall take effect upon its approval;
11 provided that:

12 (1) Section 10 shall take effect July 1, 2008;

13 (2) Section 11 shall take effect retroactive to May 19,
14 2006;

15 (3) Sections 14, 15, 16, and 17 shall take effect July 1,
16 2008; and

17 (4) Section 29 shall take effect retroactive to July 1,
18 2006.



H.B. NO. 1108
H.D. 1

APPROVED this 9 day of APR, 2007



GOVERNOR OF THE STATE OF HAWAII