
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Chapter 235, Hawaii Revised Statutes, is
2 amended by adding two new sections to be appropriately
3 designated and to read as follows:

4 "~~§235-~~ **Tax credits; repeal; carryover unaffected.** The
5 ability to claim a tax credit that has not been exhausted in
6 subsequent taxable years shall not be affected by the repeal
7 date of that tax credit. The exhaustion of tax credits in
8 subsequent taxable years shall be governed by the specific
9 provisions of each tax credit.

10 ~~§235-~~ **Tax credits; legislature; two-thirds vote.**
11 Effective July 1, 2009, the enactment of legislation
12 establishing any tax credit shall require a two-thirds vote of
13 the members to which each house of the legislature is entitled."

14 SECTION 2. Section 235-12.5, Hawaii Revised Statutes, is
15 repealed.

16 [~~"§235-12.5 Renewable energy technologies; income tax~~
17 ~~credit.~~ (a) ~~When the requirements of subsection (c) are met,~~

1 ~~each individual or corporate taxpayer that files an individual~~
2 ~~or corporate net income tax return for a taxable year may claim~~
3 ~~a tax credit under this section against the Hawaii state~~
4 ~~individual or corporate net income tax. The tax credit may be~~
5 ~~claimed for every eligible renewable energy technology system~~
6 ~~that is installed and placed in service in the State by a~~
7 ~~taxpayer during the taxable year. This credit shall be~~
8 ~~available for systems installed and placed in service in the~~
9 ~~State after June 30, 2003. The tax credit may be claimed as~~
10 ~~follows:~~

- 11 ~~(1) Solar thermal energy systems for:~~
- 12 ~~(A) Single-family residential property for which a~~
13 ~~building permit was issued prior to January 1,~~
14 ~~2010: thirty-five per cent of the actual cost or~~
15 ~~\$2,250, whichever is less;~~
- 16 ~~(B) Multi-family residential property: thirty-five~~
17 ~~per cent of the actual cost or \$350 per unit,~~
18 ~~whichever is less; and~~
- 19 ~~(C) Commercial property: thirty-five per cent of the~~
20 ~~actual cost or \$250,000, whichever is less;~~
- 21 ~~(2) Wind-powered energy systems for:~~

- 1 ~~(A) Single-family residential property: twenty per~~
- 2 ~~cent of the actual cost or \$1,500, whichever is~~
- 3 ~~less;~~
- 4 ~~(B) Multi-family residential property: twenty per~~
- 5 ~~cent of the actual cost or \$200 per unit,~~
- 6 ~~whichever is less; and~~
- 7 ~~(C) Commercial property: twenty per cent of the~~
- 8 ~~actual cost or \$500,000, whichever is less; and~~
- 9 ~~(3) Photovoltaic energy systems for:~~
- 10 ~~(A) Single-family residential property: thirty-five~~
- 11 ~~per cent of the actual cost or \$5,000, whichever~~
- 12 ~~is less;~~
- 13 ~~(B) Multi-family residential property: thirty-five~~
- 14 ~~per cent of the actual cost or \$350 per unit,~~
- 15 ~~whichever is less; and~~
- 16 ~~(C) Commercial property: thirty-five per cent of the~~
- 17 ~~actual cost or \$500,000, whichever is less;~~
- 18 ~~provided that multiple owners of a single system shall be~~
- 19 ~~entitled to a single tax credit; and provided further that the~~
- 20 ~~tax credit shall be apportioned between the owners in proportion~~
- 21 ~~to their contribution to the cost of the system.~~

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

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

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

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

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

19 ~~(1) A usable source of thermal or mechanical energy;~~

20 ~~(2) Electricity; or~~

21 ~~(3) Fuel.~~

1 ~~"Solar or wind energy system" means any identifiable~~
2 ~~facility, equipment, apparatus, or the like that converts~~
3 ~~insolation or wind energy to useful thermal or electrical energy~~
4 ~~for heating, cooling, or reducing the use of other types of~~
5 ~~energy that are dependent upon fossil fuel for their generation.~~

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

10 ~~(d) The director of taxation shall prepare any forms that~~
11 ~~may be necessary to claim a tax credit under this section,~~
12 ~~including forms identifying the technology type of each tax~~
13 ~~credit claimed under this section, whether for solar thermal,~~
14 ~~photovoltaic from the sun, or wind. The director may also~~
15 ~~require the taxpayer to furnish reasonable information to~~
16 ~~ascertain the validity of the claim for credit made under this~~
17 ~~section and may adopt rules necessary to effectuate the purposes~~
18 ~~of this section pursuant to chapter 91.~~

19 ~~(e) If the tax credit under this section exceeds the~~
20 ~~taxpayer's income tax liability, the excess of the credit over~~
21 ~~liability may be used as a credit against the taxpayer's income~~
22 ~~tax liability in subsequent years until exhausted. All claims~~

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

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

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

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

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

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

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

19 ~~(B) Taxpayer type.~~

20 ~~(g) For systems installed and placed in service in 2009,~~
21 ~~no residential home developer shall be entitled to claim the~~
22 ~~credit under subsections (a) (1) (A), (a) (2) (A), and (a) (3) (A). A~~

1 ~~residential home developer is defined as a person who holds more~~
2 ~~than one residential dwelling for sale as inventory."]~~

3 SECTION 3. Section 235-15, Hawaii Revised Statutes, is
4 repealed.

5 [~~"§235-15 Tax credits to promote the purchase of child~~
6 ~~passenger restraint systems. (a) Any taxpayer who files an~~
7 ~~individual income tax return for a taxable year may claim an~~
8 ~~income tax credit under this section against the Hawaii state~~
9 ~~individual net income tax.~~

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

17 ~~(c) If the tax credit claimed by the taxpayer under this~~
18 ~~section exceeds the amount of the income tax payments due from~~
19 ~~the taxpayer, the excess of credit over payments due shall be~~
20 ~~refunded to the taxpayer; provided that the tax credit properly~~
21 ~~claimed by a taxpayer who has no income tax liability shall be~~
22 ~~paid to the taxpayer; and provided that no refunds or payments~~

1 ~~on account of the tax credit allowed by this section shall be~~
2 ~~made for amounts less than \$1.~~

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

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

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

14 SECTION 4. Section 235-17, Hawaii Revised Statutes, is
15 repealed.

16 [~~"§235-17 Motion picture, digital media, and film~~
17 ~~production income tax credit.~~ (a) ~~Any law to the contrary~~
18 ~~notwithstanding, there shall be allowed to each taxpayer subject~~
19 ~~to the taxes imposed by this chapter, an income tax credit which~~
20 ~~shall be deductible from the taxpayer's net income tax~~
21 ~~liability, if any, imposed by this chapter for the taxable year~~

1 ~~in which the credit is properly claimed. The amount of the~~
2 ~~credit shall be:~~

3 ~~(1) Fifteen per cent of the qualified production costs~~
4 ~~incurred by a qualified production in any county of~~
5 ~~the State with a population of over seven hundred~~
6 ~~thousand; or~~

7 ~~(2) Twenty per cent of the qualified production costs~~
8 ~~incurred by a qualified production in any county of~~
9 ~~the State with a population of seven hundred thousand~~
10 ~~or less.~~

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

15 ~~In the case of a partnership, S corporation, estate, or~~
16 ~~trust, the tax credit allowable is for qualified production~~
17 ~~costs incurred by the entity for the taxable year. The cost~~
18 ~~upon which the tax credit is computed shall be determined at the~~
19 ~~entity level. Distribution and share of credit shall be~~
20 ~~determined by rule.~~

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

1 ~~Revenue Code of 1986, as amended, no tax credit shall be allowed~~
2 ~~for those costs for which the deduction is taken.~~

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

6 ~~(b) The credit allowed under this section shall be claimed~~
7 ~~against the net income tax liability for the taxable year. For~~
8 ~~the purposes of this section, "net income tax liability" means~~
9 ~~net income tax liability reduced by all other credits allowed~~
10 ~~under this chapter.~~

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

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

- 1 ~~(1) Meet the definition of a qualified production~~
2 ~~specified in subsection (1);~~
- 3 ~~(2) Have qualified production costs totaling at least~~
4 ~~\$200,000;~~
- 5 ~~(3) Provide the State, at a minimum, a shared-card, end-~~
6 ~~title screen credit, where applicable;~~
- 7 ~~(4) Provide evidence of reasonable efforts to hire local~~
8 ~~talent and crew; and~~
- 9 ~~(5) Provide evidence of financial or in-kind contributions~~
10 ~~or educational or workforce development efforts, in~~
11 ~~partnership with related local industry labor~~
12 ~~organizations, educational institutions, or both,~~
13 ~~toward the furtherance of the local film and~~
14 ~~television and digital media industries.~~

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

19 ~~(f) To receive the tax credit, the taxpayer shall first~~
20 ~~prequalify the production for the credit by registering with the~~
21 ~~department of business, economic development, and tourism during~~
22 ~~the development or preproduction stage. Failure to comply with~~

1 ~~this provision may constitute a waiver of the right to claim the~~
2 ~~credit.~~

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

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

- 15 ~~(1) All qualified production costs as provided by~~
16 ~~subsection (a), if any, incurred in the previous~~
17 ~~taxable year;~~
- 18 ~~(2) The amount of tax credits claimed pursuant to this~~
19 ~~section, if any, in the previous taxable year; and~~
- 20 ~~(3) The number of total hires versus the number of local~~
21 ~~hires by category (i.e., department) and by county.~~

1 ~~(i) The department of business, economic development, and~~
2 ~~tourism shall:~~

3 ~~(1) Maintain records of the names of the taxpayers and~~
4 ~~qualified productions thereof claiming the tax credits~~
5 ~~under subsection (a);~~

6 ~~(2) Obtain and total the aggregate amounts of all~~
7 ~~qualified production costs per qualified production~~
8 ~~and per qualified production per taxable year; and~~

9 ~~(3) Provide a letter to the director of taxation~~
10 ~~specifying the amount of the tax credit per qualified~~
11 ~~production for each taxable year that a tax credit is~~
12 ~~claimed and the cumulative amount of the tax credit~~
13 ~~for all years claimed.~~

14 ~~Upon each determination required under this subsection, the~~
15 ~~department of business, economic development, and tourism shall~~
16 ~~issue a letter to the taxpayer, regarding the qualified~~
17 ~~production, specifying the qualified production costs and the~~
18 ~~tax credit amount qualified for in each taxable year a tax~~
19 ~~credit is claimed. The taxpayer for each qualified production~~
20 ~~shall file the letter with the taxpayer's tax return for the~~
21 ~~qualified production to the department of taxation.~~

22 ~~Notwithstanding the authority of the department of business,~~

1 ~~economic development, and tourism under this section, the~~
2 ~~director of taxation may audit and adjust the tax credit amount~~
3 ~~to conform to the information filed by the taxpayer.~~

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

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

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

9 ~~"Commercial":~~

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

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

16 ~~(3) Does not include an advertising message with~~
17 ~~Internet-only distribution.~~

18 ~~"Digital media" means production methods and platforms~~
19 ~~directly related to the creation of cinematic imagery and~~
20 ~~content, specifically using digital means, including but not~~
21 ~~limited to digital cameras, digital sound equipment, and~~
22 ~~computers, to be delivered via film, videotape, interactive game~~

1 ~~platform, or other digital distribution media (excluding~~
2 ~~Internet-only distribution).~~

3 ~~"Post production" means production activities and services~~
4 ~~conducted after principal photography is completed, including~~
5 ~~but not limited to editing, film and video transfers,~~
6 ~~duplication, transcoding, dubbing, subtitling, credits, closed~~
7 ~~captioning, audio production, special effects (visual and~~
8 ~~sound), graphics, and animation.~~

9 ~~"Production" means a series of activities that are directly~~
10 ~~related to the creation of visual and cinematic imagery to be~~
11 ~~delivered via film, videotape, or digital media and to be sold,~~
12 ~~distributed, or displayed as entertainment or the advertisement~~
13 ~~of products for mass public consumption, including but not~~
14 ~~limited to scripting, casting, set design and construction,~~
15 ~~transportation, videography, photography, sound recording,~~
16 ~~interactive game design, and post production.~~

17 ~~"Qualified production":~~

18 ~~(1) Means a production, with expenditures in the State,~~
19 ~~for the total or partial production of a feature-~~
20 ~~length motion picture, short film, made-for-television~~
21 ~~movie, commercial, music video, interactive game,~~
22 ~~television series pilot, single season (up to~~

1 ~~twenty-two episodes) of a television series regularly~~
2 ~~filmed in the State (if the number of episodes per~~
3 ~~single season exceeds twenty-two, additional episodes~~
4 ~~for the same season shall constitute a separate~~
5 ~~qualified production), television special, single~~
6 ~~television episode that is not part of a television~~
7 ~~series regularly filmed or based in the State,~~
8 ~~national magazine show, or national talk show. For~~
9 ~~the purposes of subsections (d) and (j), each of the~~
10 ~~aforementioned qualified production categories shall~~
11 ~~constitute separate, individual qualified productions,~~
12 ~~and~~

13 ~~(2) Does not include: daily news; public affairs programs;~~
14 ~~non-national magazine or talk shows; televised~~
15 ~~sporting events or activities; productions that~~
16 ~~solicit funds; productions produced primarily for~~
17 ~~industrial, corporate, institutional, or other private~~
18 ~~purposes; and productions that include any material or~~
19 ~~performance prohibited by chapter 712.~~

20 ~~"Qualified production costs" means the costs incurred by a~~
21 ~~qualified production within the State that are subject to the~~
22 ~~general excise tax under chapter 237 or income tax under this~~

1 ~~chapter and that have not been financed by any investments for~~
2 ~~which a credit was or will be claimed pursuant to section~~
3 ~~235-110.9. Qualified production costs include but are not~~
4 ~~limited to:~~

- 5 ~~(1) Costs incurred during preproduction such as location~~
6 ~~scouting and related services;~~
- 7 ~~(2) Costs of set construction and operations, purchases or~~
8 ~~rentals of wardrobe, props, accessories, food, office~~
9 ~~supplies, transportation, equipment, and related~~
10 ~~services;~~
- 11 ~~(3) Wages or salaries of cast, crew, and musicians;~~
- 12 ~~(4) Costs of photography, sound synchronization, lighting,~~
13 ~~and related services;~~
- 14 ~~(5) Costs of editing, visual effects, music, other post-~~
15 ~~production, and related services;~~
- 16 ~~(6) Rentals and fees for use of local facilities and~~
17 ~~locations;~~
- 18 ~~(7) Rentals of vehicles and lodging for cast and crew;~~
- 19 ~~(8) Airfare for flights to or from Hawaii, and interisland~~
20 ~~flights;~~
- 21 ~~(9) Insurance and bonding;~~

1 ~~(10) Shipping of equipment and supplies to or from Hawaii,~~
2 ~~and interisland shipments; and~~

3 ~~(11) Other direct production costs specified by the~~
4 ~~department in consultation with the department of~~
5 ~~business, economic development, and tourism."]~~

6 SECTION 5. Section 235-55, Hawaii Revised Statutes, is
7 repealed.

8 ~~["§235-55 Tax credits for resident taxpayers. (a)~~

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

- 1 ~~(1) Of such tax payment; and~~
- 2 ~~(2) That the laws of the other jurisdiction do not allow~~
3 ~~the individual or person a credit against the taxes~~
4 ~~imposed by such jurisdiction for the taxes paid or~~
5 ~~payable under this chapter, or do allow such credit in~~
6 ~~an amount which has been deducted in computing the~~
7 ~~amount of credit sought under this section.~~
- 8 ~~(b) The application of such credit, however:~~
- 9 ~~(1) Shall not be allowed with respect to any taxable~~
10 ~~income or any tax which under subchapter N of chapter~~
11 ~~1 of the Internal Revenue Code of 1954 (which is~~
12 ~~applicable for federal purposes but not for state~~
13 ~~purposes) is or may be the subject of an exclusion,~~
14 ~~exemption, or tax credit; and~~
- 15 ~~(2) Shall not operate to reduce the tax payable under this~~
16 ~~chapter to an amount less than that which would have~~
17 ~~been payable had the taxpayer been taxable only on the~~
18 ~~income from property owned, personal services~~
19 ~~performed, trade or business carried on, and other~~
20 ~~sources in the State.~~
- 21 ~~(c) If any taxes paid to another jurisdiction for which a~~
22 ~~taxpayer has been allowed a credit under this section are at any~~

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

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

14 SECTION 6. Section 235-55.6, Hawaii Revised Statutes, is
15 repealed.

16 [~~§235-55.6 Expenses for household and dependent care~~
17 ~~services necessary for gainful employment.~~ (a) Allowance of
18 credit.

19 ~~(1) In general. For each resident taxpayer, who files an~~
20 ~~individual income tax return for a taxable year, and~~
21 ~~who is not claimed or is not otherwise eligible to be~~
22 ~~claimed as a dependent by another taxpayer for federal~~

1 ~~or Hawaii state individual income tax purposes, who~~
2 ~~maintains a household which includes as a member one~~
3 ~~or more qualifying individuals (as defined in~~
4 ~~subsection (b) (1)), there shall be allowed as a credit~~
5 ~~against the tax imposed by this chapter for the~~
6 ~~taxable year an amount equal to the applicable~~
7 ~~percentage of the employment-related expenses (as~~
8 ~~defined in subsection (b) (2)) paid by such individual~~
9 ~~during the taxable year. If the tax credit claimed by~~
10 ~~a resident taxpayer exceeds the amount of income tax~~
11 ~~payment due from the resident taxpayer, the excess of~~
12 ~~the credit over payments due shall be refunded to the~~
13 ~~resident taxpayer; provided that tax credit properly~~
14 ~~claimed by a resident individual who has no income tax~~
15 ~~liability shall be paid to the resident individual;~~
16 ~~and provided further that no refunds or payment on~~
17 ~~account of the tax credit allowed by this section~~
18 ~~shall be made for amounts less than \$1.~~

19 ~~(2) Applicable percentage defined. For purposes of~~
20 ~~paragraph (1), the term "applicable percentage" means~~
21 ~~twenty-five per cent reduced (but not below fifteen~~
22 ~~per cent) by one percentage point of each \$2,000 (or~~

1 ~~fraction thereof) by which the taxpayer's adjusted~~
2 ~~gross income for the taxable year exceeds \$22,000.~~

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

5 ~~(1) Qualifying individual. The term "qualifying~~
6 ~~individual" means:~~

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

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

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

16 ~~(2) Employment-related expenses.~~

17 ~~(A) In general. The term "employment-related~~
18 ~~expenses" means amounts paid for the following~~
19 ~~expenses, but only if such expenses are incurred~~
20 ~~to enable the taxpayer to be gainfully employed~~
21 ~~for any period for which there are one or more~~

1 ~~qualifying individuals with respect to the~~
2 ~~taxpayer:~~

3 ~~(i) Expenses for household services, and~~

4 ~~(ii) Expenses for the care of a qualifying~~
5 ~~individual.~~

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

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

15 ~~(i) A qualifying individual described in~~
16 ~~paragraph (1)(A), or~~

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

21 ~~(C) Dependent care centers. Employment-related~~
22 ~~expenses described in subparagraph (A) which are~~

1 ~~incurred for services provided outside the~~
2 ~~taxpayer's household by a dependent care center~~
3 ~~(as defined in subparagraph (D)) shall be taken~~
4 ~~into account only if:~~

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

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

14 ~~(iii) The requirements of subparagraph (B) are~~
15 ~~met.~~

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

19 ~~(i) Provides care for more than six individuals~~
20 ~~(other than individuals who reside at the~~
21 ~~facility), and~~

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

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

9 ~~(1) \$2,400 if there is one qualifying individual with~~
10 ~~respect to the taxpayer for such taxable year, or~~

11 ~~(2) \$4,800 if there are two or more qualifying individuals~~
12 ~~with respect to the taxpayer for such taxable year.~~

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

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

19 ~~(1) In general. Except as otherwise provided in this~~
20 ~~subsection, the amount of the employment-related~~

21 ~~expenses incurred during any taxable year which may be~~

1 ~~taken into account under subsection (a) shall not~~
2 ~~exceed:~~

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

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

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

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

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

1 ~~In the case of any husband and wife, this paragraph~~
2 ~~shall apply with respect to only one spouse for any~~
3 ~~one month.~~

4 ~~(c) Special rules. For purposes of this section:~~

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

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

16 ~~(3) Marital status. An individual legally separated from~~
17 ~~the individual's spouse under a decree of divorce or~~
18 ~~of separate maintenance shall not be considered as~~
19 ~~married.~~

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

21 ~~(A) An individual who is married and who files a~~
22 ~~separate return:~~

- 1 ~~(i) Maintains as the individual's home a~~
2 ~~household that constitutes for more than~~
3 ~~one half of the taxable year the principal~~
4 ~~place of abode of a qualifying individual,~~
5 ~~and~~
- 6 ~~(ii) Furnishes over half of the cost of~~
7 ~~maintaining the household during the taxable~~
8 ~~year, and~~
- 9 ~~(B) During the last six months of the taxable year~~
10 ~~the individual's spouse is not a member of the~~
11 ~~household,~~
- 12 ~~the individual shall not be considered as married.~~
- 13 ~~(5) Special dependency test in case of divorced parents,~~
14 ~~etc.—If:~~
- 15 ~~(A) Paragraph (2) or (4) of section 152(e) of the~~
16 ~~Internal Revenue Code of 1986, as amended,~~
17 ~~applies to any child with respect to any calendar~~
18 ~~year, and~~
- 19 ~~(B) The child is under age thirteen or is physically~~
20 ~~or mentally incompetent of caring for the child's~~
21 ~~self,~~

1 ~~in the case of any taxable year beginning in the~~
2 ~~calendar year, the child shall be treated as a~~
3 ~~qualifying individual described in subsection~~
4 ~~(b) (1) (A) or (B) (whichever is appropriate) with~~
5 ~~respect to the custodial parent (within the meaning of~~
6 ~~section 152 (e) (1) of the Internal Revenue Code of~~
7 ~~1986, as amended), and shall not be treated as a~~
8 ~~qualifying individual with respect to the noncustodial~~
9 ~~parent.~~

10 ~~(6) Payments to related individuals. No credit shall be~~
11 ~~allowed under subsection (a) for any amount paid by~~
12 ~~the taxpayer to an individual:~~

13 ~~(A) With respect to whom, for the taxable year, a~~
14 ~~deduction under section 151 (c) of the Internal~~
15 ~~Revenue Code of 1986, as amended (relating to~~
16 ~~deduction for personal exemptions for dependents)~~
17 ~~is allowable either to the taxpayer or the~~
18 ~~taxpayer's spouse, or~~

19 ~~(B) Who is a child of the taxpayer (within the~~
20 ~~meaning of section 151 (c) (3) of the Internal~~
21 ~~Revenue Code of 1986, as amended) who has not~~

1 ~~attained the age of nineteen at the close of the~~
2 ~~taxable year.~~

3 ~~For purposes of this paragraph, the term "taxable~~
4 ~~year" means the taxable year of the taxpayer in which~~
5 ~~the service is performed.~~

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

10 ~~(8) Educational organization. The term "educational~~
11 ~~organization" means a school operated by the~~
12 ~~department of education under chapter 302A, an~~
13 ~~educational organization described in section~~
14 ~~170(b)(1)(A)(ii) of the Internal Revenue Code of 1986,~~
15 ~~as amended, or a university, college, or community~~
16 ~~college.~~

17 ~~(9) Identifying information required with respect to~~
18 ~~service provider. No credit shall be allowed under~~
19 ~~subsection (a) for any amount paid to any person~~
20 ~~unless:~~

21 ~~(A) The name, address, taxpayer identification~~
22 ~~number, and general excise tax license number of~~

1 ~~the person are included on the return claiming~~
2 ~~the credit,~~

3 ~~(B) If the person is located outside the State, the~~
4 ~~name, address, and taxpayer identification~~
5 ~~number, if any, of the person and a statement~~
6 ~~indicating that the service provider is located~~
7 ~~outside the State and that the general excise tax~~
8 ~~license and, if applicable, the taxpayer~~
9 ~~identification numbers are not required, or~~

10 ~~(C) If the person is an organization described in~~
11 ~~section 501(c)(3) of the Internal Revenue Code~~
12 ~~and exempt from tax under section 501(a) of the~~
13 ~~Internal Revenue Code, the name and address of~~
14 ~~the person are included on the return claiming~~
15 ~~the credit.~~

16 ~~In the case of a failure to provide the information~~
17 ~~required under the preceding sentence, the preceding~~
18 ~~sentence shall not apply if it is shown that the~~
19 ~~taxpayer exercised due diligence in attempting to~~
20 ~~provide the information so required.~~

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

4 SECTION 7. Section 235-55.7, Hawaii Revised Statutes, is
5 repealed.

6 ~~["**S235-55.7 Income tax credit for low-income household**~~

7 ~~**renters.** (a) As used in this section:~~

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

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

16 ~~(3) "Rent" means the amount paid in cash in any taxable~~
17 ~~year for the occupancy of a dwelling place which is~~
18 ~~used by a resident taxpayer or the resident taxpayer's~~
19 ~~immediate family as the principal residence in this~~
20 ~~State. Rent is limited to the amount paid for the~~
21 ~~occupancy of the dwelling place only, and is exclusive~~
22 ~~of charges for utilities, parking stalls, storage of~~

1 ~~goods, yard services, furniture, furnishings, and the~~
2 ~~like. Rent shall not include any rental claimed as a~~
3 ~~deduction from gross income or adjusted gross income~~
4 ~~for income tax purposes, any ground rental paid for~~
5 ~~use of land only, and any rent allowance or subsidies~~
6 ~~received.~~

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

16 ~~(c) Each taxpayer with an adjusted gross income of less~~
17 ~~than \$30,000 who has paid more than \$1,000 in rent during the~~
18 ~~taxable year for which the credit is claimed may claim a tax~~
19 ~~credit of \$50 multiplied by the number of qualified exemptions~~
20 ~~to which the taxpayer is entitled; provided each taxpayer sixty-~~
21 ~~five years of age or over may claim double the tax credit; and~~
22 ~~provided that a resident individual who has no income or no~~

1 ~~income taxable under this chapter may also claim the tax credit~~
2 ~~as set forth in this section.~~

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

7 ~~(e) The tax credits shall be deductible from the~~
8 ~~taxpayer's individual net income tax for the tax year in which~~
9 ~~the credits are properly claimed; provided that a husband and~~
10 ~~wife filing separate returns for a taxable year for which a~~
11 ~~joint return could have been made by them shall claim only the~~
12 ~~tax credits to which they would have been entitled had a joint~~
13 ~~return been filed. In the event the allowed tax credits exceed~~
14 ~~the amount of the income tax payments due from the taxpayer, the~~
15 ~~excess of credits over payments due shall be refunded to the~~
16 ~~taxpayer; provided that allowed tax credits properly claimed by~~
17 ~~an individual who has no income tax liability shall be paid to~~
18 ~~the individual; and provided further that no refunds or payments~~
19 ~~on account of the tax credits allowed by this section shall be~~
20 ~~made for amounts less than \$1.~~

21 ~~(f) The director of taxation shall prepare and prescribe~~
22 ~~the appropriate form or forms to be used herein, may require~~

1 ~~proof of the claim for tax credits, and may adopt rules pursuant~~
2 ~~to chapter 91.~~

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

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

10 SECTION 8. Section 235-55.85, Hawaii Revised Statutes, is
11 repealed.

12 [~~"§235-55.85 Refundable food/excise tax credit. (a) Each~~
13 ~~resident individual taxpayer, who files an individual income tax~~
14 ~~return for a taxable year, and who is not claimed or is not~~
15 ~~otherwise eligible to be claimed as a dependent by another~~
16 ~~taxpayer for federal or Hawaii state individual income tax~~
17 ~~purposes, may claim a refundable food/excise tax credit against~~
18 ~~the resident taxpayer's individual income tax liability for the~~
19 ~~taxable year for which the individual income tax return is being~~
20 ~~filed; provided that a resident individual who has no income or~~
21 ~~no income taxable under this chapter and who is not claimed or~~
22 ~~is not otherwise eligible to be claimed as a dependent by a~~

~~1 taxpayer for federal or Hawaii state individual income tax
2 purposes may claim this credit.~~

~~3 (b) Each resident individual taxpayer may claim a
4 refundable food/excise tax credit multiplied by the number of
5 qualified exemptions to which the taxpayer is entitled in
6 accordance with the table below; provided that a husband and
7 wife filing separate tax returns for a taxable year for which a
8 joint return could have been filed by them shall claim only the
9 tax credit to which they would have been entitled had a joint
10 return been filed.~~

| 11 | Adjusted gross income | Credit per exemption |
|---------------|------------------------------------|---------------------------------|
| 12 | Under \$5,000 | \$85 |
| 13 | \$5,000 under \$10,000 | 75 |
| 14 | \$10,000 under \$15,000 | 65 |
| 15 | \$15,000 under \$20,000 | 55 |
| 16 | \$20,000 under \$30,000 | 45 |
| 17 | \$30,000 under \$40,000 | 35 |
| 18 | \$40,000 under \$50,000 | 25 |
| 19 | \$50,000 and over | 0 |

~~20 (c) For the purposes of this section, a qualified
21 exemption is defined to include those exemptions permitted under
22 this chapter; provided that no additional exemption may be~~

1 ~~claimed by a taxpayer who is sixty-five years of age or older;~~
2 ~~provided that a person for whom exemption is claimed has~~
3 ~~physically resided in the State for more than nine months during~~
4 ~~the taxable year; and provided further that multiple exemptions~~
5 ~~shall not be granted because of deficiencies in vision or~~
6 ~~hearing, or other disability. For purposes of claiming this~~
7 ~~credit only, a minor child receiving support from the department~~
8 ~~of human services of the State, social security survivor's~~
9 ~~benefits, and the like, may be considered a dependent and a~~
10 ~~qualified exemption of the parent or guardian.~~

11 ~~(d) The tax credit under this section shall not be~~
12 ~~available to:~~

13 ~~(1) Any person who has been convicted of a felony and who~~
14 ~~has been committed to prison and has been physically~~
15 ~~confined for the full taxable year;~~

16 ~~(2) Any person who would otherwise be eligible to be~~
17 ~~claimed as a dependent but who has been committed to a~~
18 ~~youth correctional facility and has resided at the~~
19 ~~facility for the full taxable year; or~~

20 ~~(3) Any misdemeanor who has been committed to jail and~~
21 ~~has been physically confined for the full taxable~~
22 ~~year.~~

1 ~~(e) The tax credits claimed by a resident taxpayer~~
2 ~~pursuant to this section shall be deductible from the resident~~
3 ~~taxpayer's individual income tax liability, if any, for the tax~~
4 ~~year in which they are properly claimed. If the tax credits~~
5 ~~claimed by a resident taxpayer exceed the amount of income tax~~
6 ~~payment due from the resident taxpayer, the excess of credits~~
7 ~~over payments due shall be refunded to the resident taxpayer;~~
8 ~~provided that tax credits properly claimed by a resident~~
9 ~~individual who has no income tax liability shall be paid to the~~
10 ~~resident individual; and provided further that no refunds or~~
11 ~~payment on account of the tax credits allowed by this section~~
12 ~~shall be made for amounts less than \$1.~~

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

19 ~~(g) For the purposes of this section, "adjusted gross~~
20 ~~income" means adjusted gross income as defined by the Internal~~
21 ~~Revenue Code."]~~

1 SECTION 9. Section 235-55.91, Hawaii Revised Statutes, is
2 repealed.

3 [~~"§235-55.91 Credit for employment of vocational~~
4 ~~rehabilitation referrals.~~ (a) ~~There shall be allowed to each~~
5 ~~taxpayer subject to the tax imposed by this chapter, a credit~~
6 ~~for employment of vocational rehabilitation referrals which~~
7 ~~shall be deductible from the taxpayer's net income tax~~
8 ~~liability, if any, imposed by this chapter for the taxable year~~
9 ~~in which the credit is properly claimed.~~

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

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

16 "Hiring date" ~~means the day the vocational rehabilitation~~
17 ~~referral is hired by the employer.~~

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

1 ~~"Qualified wages" means the wages paid or incurred by the~~
2 ~~employer during the taxable year to an individual who is a~~
3 ~~vocational rehabilitation referral and more than one-half of the~~
4 ~~wages paid or incurred for such an individual is for services~~
5 ~~performed in a trade or business of the employer.~~

6 ~~"Vocational rehabilitation referral" means any individual~~
7 ~~who is certified by the department of human services vocational~~
8 ~~rehabilitation and services for the blind division in~~
9 ~~consultation with the Hawaii state employment service of the~~
10 ~~department of labor and industrial relations as:~~

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

14 ~~(2) Having been referred to the employer upon completion~~
15 ~~of (or while receiving) rehabilitative services~~
16 ~~pursuant to:~~

17 ~~(A) An individualized written rehabilitation plan~~
18 ~~under the State's plan for vocational~~
19 ~~rehabilitation services approved under the~~
20 ~~Rehabilitation Act of 1973, as amended;~~

1 ~~(B) A program of vocational rehabilitation carried~~
2 ~~out under chapter 31 of Title 38, United States~~
3 ~~Code; or~~

4 ~~(C) An individual work plan developed and implemented~~
5 ~~by an employment network pursuant to subsection~~
6 ~~(g) of section 1148 of the Social Security Act,~~
7 ~~as amended, with respect to which the~~
8 ~~requirements of such subsection are met.~~

9 ~~"Wages" has the meaning given to such term by section~~
10 ~~3306(b) of the Internal Revenue Code (determined without regard~~
11 ~~to any dollar limitation contained in the Internal Revenue Code~~
12 ~~section). "Wages" shall not include:~~

13 ~~(1) Amounts paid or incurred by an employer for any period~~
14 ~~to any vocational rehabilitation referral for whom the~~
15 ~~employer receives state or federally funded payments~~
16 ~~for on-the-job training of the individual for the~~
17 ~~period;~~

18 ~~(2) Amounts paid to an employer (however utilized by the~~
19 ~~employer) for any vocational rehabilitation referral~~
20 ~~under a program established under section 414 of the~~
21 ~~Social Security Act; and~~

1 ~~(3) If the principal place of employment is at a plant or~~
2 ~~facility, and there is a strike or lockout involving~~
3 ~~vocational rehabilitation referrals at the plant or~~
4 ~~facility, amounts paid or incurred by the employer to~~
5 ~~the vocational rehabilitation referral for services~~
6 ~~which are the same as, or substantially similar to,~~
7 ~~those services performed by employees participating~~
8 ~~in, or affected by, the strike or lockout during the~~
9 ~~period of strike or lockout.~~

10 ~~(d) The following shall apply to certifications of~~
11 ~~vocational rehabilitation referrals:~~

12 ~~(1) An individual shall not be treated as a vocational~~
13 ~~rehabilitation referral unless, on or before the day~~
14 ~~on which the individual begins work for the employer,~~
15 ~~the employer:~~

16 ~~(A) Has received a certification from the department~~
17 ~~of human services vocational rehabilitation and~~
18 ~~services for the blind division that the~~
19 ~~individual is a qualified vocational~~
20 ~~rehabilitation referral; or~~

21 ~~(B) Has requested in writing the certification from~~
22 ~~the department of human services vocational~~

1 ~~rehabilitation and services for the blind~~
2 ~~division that the individual is a qualified~~
3 ~~vocational rehabilitation referral.~~

4 ~~For purposes of the preceding sentence, if on or~~
5 ~~before the day on which the individual begins work for~~
6 ~~the employer, the individual has received from the~~
7 ~~department of human services vocational rehabilitation~~
8 ~~and services for the blind division a written~~
9 ~~preliminary determination that the individual is a~~
10 ~~vocational rehabilitation referral, then "the fifth~~
11 ~~day" shall be substituted for "the day" in the~~
12 ~~preceding sentence.~~

13 ~~(2) If an individual has been certified as a vocational~~
14 ~~rehabilitation referral and the certification is~~
15 ~~incorrect because it was based on false information~~
16 ~~provided by the individual, the certification shall be~~
17 ~~revoked and wages paid by the employer after the date~~
18 ~~on which notice of revocation is received by the~~
19 ~~employer shall not be treated as qualified wages.~~

20 ~~(3) In any request for a certification of an individual as~~
21 ~~vocational rehabilitation referral, the employer shall~~
22 ~~certify that a good faith effort was made to determine~~

1 ~~that such individual is a vocational rehabilitation~~
2 ~~referral.~~

3 ~~(e) The following wages paid to vocational rehabilitation~~
4 ~~referrals are ineligible to be claimed by the employer for this~~
5 ~~credit:~~

6 ~~(1) No wages shall be taken into account under this~~
7 ~~section with respect to a vocational rehabilitation~~
8 ~~referral who:~~

9 ~~(A) Bears any of the relationships described in~~
10 ~~section 152(a)(1) to (8) of the Internal Revenue~~
11 ~~Code to the taxpayer, or, if the taxpayer is a~~
12 ~~corporation, to an individual who owns, directly~~
13 ~~or indirectly, more than fifty per cent in value~~
14 ~~of the outstanding stock of the corporation~~
15 ~~(determined with the application of section~~
16 ~~267(c) of the Internal Revenue Code);~~

17 ~~(B) If the taxpayer is an estate or trust, is a~~
18 ~~grantor, beneficiary, or fiduciary of the estate~~
19 ~~or trust, or is an individual who bears any of~~
20 ~~the relationships described in section 152(a)(1)~~
21 ~~to (8) of the Internal Revenue Code to a grantor,~~

- 1 ~~beneficiary, or fiduciary of the estate or trust;~~
2 ~~or~~
- 3 ~~(C) Is a dependent (described in section 152(a)(9) of~~
4 ~~the Internal Revenue Code) of the taxpayer, or,~~
5 ~~if the taxpayer is a corporation, of an~~
6 ~~individual described in subparagraph (A), or, if~~
7 ~~the taxpayer is an estate or trust, of a grantor,~~
8 ~~beneficiary, or fiduciary of the estate or trust.~~
- 9 ~~(2) No wages shall be taken into account under this~~
10 ~~section with respect to any vocational rehabilitation~~
11 ~~referral if, prior to the hiring date of the~~
12 ~~individual, the individual had been employed by the~~
13 ~~employer at any time during which the individual was~~
14 ~~not a vocational rehabilitation referral.~~
- 15 ~~(3) No wages shall be taken into account under this~~
16 ~~section with respect to any vocational rehabilitation~~
17 ~~referral unless such individual either:~~
- 18 ~~(A) Is employed by the employer at least ninety days;~~
19 ~~or~~
- 20 ~~(B) Has completed at least one hundred twenty hours~~
21 ~~of services performed for the employer.~~

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

7 ~~(g) No credit shall be determined under this section with~~
8 ~~respect to wages paid by an employer to a vocational~~
9 ~~rehabilitation referral for services performed by the individual~~
10 ~~for another person unless the amount reasonably expected to be~~
11 ~~received by the employer for the services from the other person~~
12 ~~exceeds the wages paid by the employer to the individual for~~
13 ~~such services.~~

14 ~~(h) The credit allowed under this section shall be claimed~~
15 ~~against net income tax liability for the taxable year. A tax~~
16 ~~credit under this section which exceeds the taxpayer's income~~
17 ~~tax liability may be used as a credit against the taxpayer's~~
18 ~~income tax liability in subsequent years until exhausted.~~

19 ~~(i) All claims for tax credits under this section,~~
20 ~~including any amended claims, shall be filed on or before the~~
21 ~~end of the twelfth month following the close of the taxable year~~
22 ~~for which the credits may be claimed. Failure to comply with~~

1 ~~the foregoing provision shall constitute a waiver of the right~~
2 ~~to claim the credit.~~

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

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

8 SECTION 10. Section 235-71, Hawaii Revised Statutes, is
9 repealed.

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

21 The tax on all taxable income shall be at the rate of 4.4
22 per cent if the taxable income is not over \$25,000, 5.4 per cent

1 ~~if over \$25,000 but not over \$100,000, and on all over \$100,000,~~
2 ~~6.4 per cent.~~

3 ~~(b) In the case of a regulated investment company there is~~
4 ~~imposed on the taxable income, computed as provided in sections~~
5 ~~852 and 855 of the Internal Revenue Code but with the changes~~
6 ~~and adjustments made by this chapter (without prejudice to the~~
7 ~~generality of the foregoing, the deduction for dividends paid is~~
8 ~~limited to such amount of dividends as is attributable to income~~
9 ~~taxable under this chapter), a tax consisting in the sum of the~~
10 ~~following: 4.4 per cent if the taxable income is not over~~
11 ~~\$25,000, 5.4 per cent if over \$25,000 but not over \$100,000, and~~
12 ~~on all over \$100,000, 6.4 per cent.~~

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

21 ~~(d) In the case of a real estate investment trust there is~~
22 ~~imposed on the taxable income, computed as provided in sections~~

1 ~~857 and 858 of the Internal Revenue Code but with the changes~~
2 ~~and adjustments made by this chapter (without prejudice to the~~
3 ~~generality of the foregoing, the deduction for dividends paid is~~
4 ~~limited to such amount of dividends as is attributable to income~~
5 ~~taxable under this chapter), a tax consisting in the sum of the~~
6 ~~following: 4.4 per cent if the taxable income is not over~~
7 ~~\$25,000, 5.4 per cent if over \$25,000 but not over \$100,000, and~~
8 ~~on all over \$100,000, 6.4 per cent. In addition to any other~~
9 ~~penalty provided by law any real estate investment trust whose~~
10 ~~tax liability for any taxable year is deemed to be increased~~
11 ~~pursuant to section 859(b) (2) (A) or 860(c) (1) (A) after December~~
12 ~~31, 1978, (relating to interest and additions to tax determined~~
13 ~~with respect to the amount of the deduction for deficiency~~
14 ~~dividends allowed) of the Internal Revenue Code shall pay a~~
15 ~~penalty in an amount equal to the amount of interest for which~~
16 ~~such trust is liable that is attributable solely to such~~
17 ~~increase. The penalty payable under this subsection with~~
18 ~~respect to any determination shall not exceed one half of the~~
19 ~~amount of the deduction allowed by section 859(a), or 860(a)~~
20 ~~after December 31, 1978, of the Internal Revenue Code for such~~
21 ~~taxable year.~~

1 ~~(c) Any corporation acting as a business entity in more~~
2 ~~than one state and which is required by this chapter to file a~~
3 ~~return and whose only activities in this State consist of sales~~
4 ~~and which does not own or rent real estate or tangible personal~~
5 ~~property and whose annual gross sales in or into this State~~
6 ~~during the tax year are not in excess of \$100,000 may elect to~~
7 ~~report and pay a tax of .5 per cent of such annual gross~~
8 ~~sales."]~~

9 SECTION 11. Section 235-110.2, Hawaii Revised Statutes, is
10 repealed.

11 ~~["**S235-110.2 Credit for school repair and maintenance.**~~

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

21 ~~(b) The amount of the credit determined under this section~~
22 ~~for the taxable year shall be equal to ten per cent of the value~~

1 ~~of contributions of in-kind services to the Hawaii school repair~~
2 ~~and maintenance fund for that taxable year; provided that the~~
3 ~~aggregate value of the contributions of in-kind services claimed~~
4 ~~by a taxpayer shall not exceed \$40,000.~~

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

6 ~~"Public schools" has the same meaning as defined in section~~
7 ~~302A-101.~~

8 ~~"Value of contributions of in-kind services" means the fair~~
9 ~~market value of uncompensated services or labor as determined~~
10 ~~and certified by the department of accounting and general~~
11 ~~services.~~

12 ~~(d) The credit allowed under this section shall be claimed~~
13 ~~against net income tax liability for the taxable year. A tax~~
14 ~~credit under this section which exceeds the taxpayer's income~~
15 ~~tax liability may be used as a credit against the taxpayer's~~
16 ~~income tax liability in subsequent years until exhausted.~~

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

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

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

17 ~~The taxpayer shall file the certificate from the department~~
18 ~~of education with the taxpayer's tax return with the department~~
19 ~~of taxation. When the total amount of certified contributions~~
20 ~~reaches \$2,500,000, the department of education shall~~
21 ~~immediately discontinue certifying contributions and notify the~~
22 ~~department of taxation. In no instance shall the total amount~~

1 ~~of certified contributions exceed \$2,500,000 for each taxable~~
2 ~~year.~~

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

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

9 SECTION 12. Section 235-110.3, Hawaii Revised Statutes, is
10 repealed.

11 [~~**\$235-110.3 Ethanol facility tax credit.**~~ (a) Each year
12 ~~during the credit period, there shall be allowed to each~~
13 ~~taxpayer subject to the taxes imposed by this chapter, an~~
14 ~~ethanol facility tax credit that shall be applied to the~~
15 ~~taxpayer's net income tax liability, if any, imposed by this~~
16 ~~chapter for the taxable year in which the credit is properly~~
17 ~~elaimed.~~

18 ~~For each qualified ethanol production facility, the annual~~
19 ~~dollar amount of the ethanol facility tax credit during the~~
20 ~~eight-year period shall be equal to thirty per cent of its~~
21 ~~nameplate capacity if the nameplate capacity is greater than~~
22 ~~five hundred thousand but less than fifteen million gallons. A~~

1 ~~taxpayer may claim this credit for each qualifying ethanol~~
2 ~~facility; provided that:~~

3 ~~(1) The claim for this credit by any taxpayer of a~~
4 ~~qualifying ethanol production facility shall not~~
5 ~~exceed one hundred per cent of the total of all~~
6 ~~investments made by the taxpayer in the qualifying~~
7 ~~ethanol production facility during the credit period;~~

8 ~~(2) The qualifying ethanol production facility operated at~~
9 ~~a level of production of at least seventy-five per~~
10 ~~cent of its nameplate capacity on an annualized basis;~~

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

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

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

17 ~~"Credit period" means a maximum period of eight years~~
18 ~~beginning from the first taxable year in which the qualifying~~
19 ~~ethanol production facility begins production even if actual~~
20 ~~production is not at seventy-five per cent of nameplate~~
21 ~~capacity.~~

1 ~~"Investment" means a nonrefundable capital expenditure~~
2 ~~related to the development and construction of any qualifying~~
3 ~~ethanol production facility, including processing equipment,~~
4 ~~waste treatment systems, pipelines, and liquid storage tanks at~~
5 ~~the facility or remote locations, including expansions or~~
6 ~~modifications. Capital expenditures shall be those direct and~~
7 ~~certain indirect costs determined in accordance with section~~
8 ~~263A of the Internal Revenue Code, relating to uniform~~
9 ~~capitalization costs, but shall not include expenses for~~
10 ~~compensation paid to officers of the taxpayer, pension and other~~
11 ~~related costs, rent for land, the costs of repairing and~~
12 ~~maintaining the equipment or facilities, training of operating~~
13 ~~personnel, utility costs during construction, property taxes,~~
14 ~~costs relating to negotiation of commercial agreements not~~
15 ~~related to development or construction, or service costs that~~
16 ~~can be identified specifically with a service department or~~
17 ~~function or that directly benefit or are incurred by reason of a~~
18 ~~service department or function. For the purposes of determining~~
19 ~~a capital expenditure under this section, the provisions of~~
20 ~~section 263A of the Internal Revenue Code shall apply as it read~~
21 ~~on March 1, 2004. For purposes of this section, investment~~
22 ~~excludes land costs and includes any investment for which the~~

1 ~~taxpayer is at risk, as that term is used in section 465 of the~~
2 ~~Internal Revenue Code (with respect to deductions limited to~~
3 ~~amount at risk).~~

4 ~~"Nameplate capacity" means the qualifying ethanol~~
5 ~~production facility's production design capacity, in gallons of~~
6 ~~motor fuel grade ethanol per year.~~

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

9 ~~"Qualifying ethanol production" means ethanol produced from~~
10 ~~renewable, organic feedstocks, or waste materials, including~~
11 ~~municipal solid waste. All qualifying production shall be~~
12 ~~fermented, distilled, gasified, or produced by physical chemical~~
13 ~~conversion methods such as reformation and catalytic conversion~~
14 ~~and dehydrated at the facility.~~

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

19 ~~(c) In the case of a taxable year in which the cumulative~~
20 ~~claims for the credit by the taxpayer of a qualifying ethanol~~
21 ~~production facility exceeds the cumulative investment made in~~
22 ~~the qualifying ethanol production facility by the taxpayer, only~~

1 ~~that portion that does not exceed the cumulative investment~~
2 ~~shall be claimed and allowed.~~

3 ~~(d) The department of business, economic development, and~~
4 ~~tourism shall:~~

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

7 ~~(2) Verify the amount of the qualifying investment;~~

8 ~~(3) Total all qualifying and cumulative investments that~~
9 ~~the department of business, economic development, and~~
10 ~~tourism certifies; and~~

11 ~~(4) Certify the total amount of the tax credit for each~~
12 ~~taxable year and the cumulative amount of the tax~~
13 ~~credit during the credit period.~~

14 ~~Upon each determination, the department of business,~~
15 ~~economic development, and tourism shall issue a certificate to~~
16 ~~the taxpayer verifying the qualifying investment amounts, the~~
17 ~~credit amount certified for each taxable year, and the~~
18 ~~cumulative amount of the tax credit during the credit period.~~

19 ~~The taxpayer shall file the certificate with the taxpayer's tax~~
20 ~~return with the department of taxation. Notwithstanding the~~
21 ~~department of business, economic development, and tourism's~~
22 ~~certification authority under this section, the director of~~

1 ~~taxation may audit and adjust certification to conform to the~~
2 ~~facts.~~

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

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

21 ~~(f) If a qualifying ethanol production facility or an~~
22 ~~interest therein is acquired by a taxpayer prior to the~~

1 ~~expiration of the credit period, the credit allowable under~~
2 ~~subsection (a) for any period after such acquisition shall be~~
3 ~~equal to the credit that would have been allowable under~~
4 ~~subsection (a) to the prior taxpayer had the taxpayer not~~
5 ~~disposed of the interest. If an interest is disposed of during~~
6 ~~any year for which the credit is allowable under subsection (a),~~
7 ~~the credit shall be allowable between the parties on the basis~~
8 ~~of the number of days during the year the interest was held by~~
9 ~~each taxpayer. In no case shall the credit allowed under~~
10 ~~subsection (a) be allowed after the expiration of the credit~~
11 ~~period.~~

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

21 ~~(h) Prior to construction of any new qualifying ethanol~~
22 ~~production facility, the taxpayer shall provide written notice~~

1 ~~of the taxpayer's intention to begin construction of a~~
2 ~~qualifying ethanol production facility. The information shall~~
3 ~~be provided to the department of taxation and the department of~~
4 ~~business, economic development, and tourism on forms provided by~~
5 ~~the department of business, economic development, and tourism,~~
6 ~~and shall include information on the taxpayer, facility~~
7 ~~location, facility production capacity, anticipated production~~
8 ~~start date, and the taxpayer's contact information.~~

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

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

20 ~~(j) If a qualifying ethanol production facility fails to~~
21 ~~achieve an average annual production of at least seventy-five~~
22 ~~per cent of its nameplate capacity for two consecutive years,~~

1 ~~the stated capacity of that facility may be revised by the~~
2 ~~director of business, economic development, and tourism to~~
3 ~~reflect actual production for the purposes of determining~~
4 ~~statewide production capacity under subsection (g) and allowable~~
5 ~~credits for that facility under subsection (a). Notwithstanding~~
6 ~~any other law to the contrary, this information shall be~~
7 ~~available for public inspection and dissemination under chapter~~
8 ~~92F.~~

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

17 ~~(l) In the case of a partnership, S corporation, estate,~~
18 ~~or trust, the tax credit allowable is for every qualifying~~
19 ~~ethanol production facility. The cost upon which the tax credit~~
20 ~~is computed shall be determined at the entity level.~~
21 ~~Distribution and share of credit shall be determined pursuant to~~
22 ~~section 235-110.7(a).~~

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

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

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

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

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

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

1 SECTION 13. Section 235-110.46, Hawaii Revised Statutes,
2 is repealed.

3 ~~["§235-110.46] Attractions and educational facilities tax~~
4 ~~credit; Ko Olina Resort and Marina; Makaha Resort.~~ (a) There
5 shall be allowed to each qualified taxpayer subject to the taxes
6 imposed by this chapter or chapter 237, 237D, 238, 239, 241, or
7 431, a tax credit [that] may be claimed for taxable years
8 beginning after December 31, 2004, for qualified costs in the
9 development of facilities for attractions and educational
10 purposes at Ko Olina Resort and Marina and at Makaha Resort.
11 The tax credit shall be deductible from the taxpayer's net
12 income tax liability, if any, imposed by this chapter and, at
13 the election of the taxpayer, from the tax liability imposed by
14 chapters 237, 237D, 238, 239, 241, and 431.

15 (b) ~~The tax credit earned shall be equal to the qualified~~
16 ~~costs incurred from June 1, 2003, through May 31, 2009, up to a~~
17 ~~maximum of \$75,000,000 of credits in the aggregate for all~~
18 ~~qualified taxpayers for all years; provided that notwithstanding~~
19 ~~the amount of tax credits earned in any year, a maximum of~~
20 ~~\$7,500,000 of tax credits in the aggregate for all qualified~~
21 ~~taxpayers may be used in any one taxable year. The credits over~~
22 ~~\$7,500,000 shall be used as provided in subsection (d). In the~~

1 ~~ease of a partnership, limited liability company, S corporation,~~
2 ~~estate, trust, or association of apartment owners, the tax~~
3 ~~credit allowable is for qualified costs incurred by the entity.~~
4 ~~The costs upon which the tax credit is computed shall be~~
5 ~~determined at the entity level.~~

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

7 ~~(1) Have expended qualified costs on and be developing a~~
8 ~~world-class aquarium and marine science and mammal~~
9 ~~research facility at Ko Olina Resort and Marina; and~~

10 ~~(2) Dedicate one-half of the net operating income of the~~
11 ~~world-class aquarium to the State, beginning on the~~
12 ~~first day of the seventeenth year following the year~~
13 ~~in which the attractions and educational facilities~~
14 ~~credit was first taken; or~~

15 ~~(3) Acquire or own the Makaha Resort, and lease or sell a~~
16 ~~portion of the Makaha Resort for use as training and~~
17 ~~educational facilities for a period of not less than~~
18 ~~six years to a taxpayer meeting the requirements of~~
19 ~~subsection (c) (1).~~

20 ~~(d) If the tax credit under this section exceeds~~
21 ~~\$7,500,000 in the aggregate for all qualified taxpayers for any~~
22 ~~taxable year or exceeds the taxpayer's tax liability under this~~

~~1 chapter or chapters 237, 237D, 238, 239, 241, and 431 for any
2 year for which the credit is taken, the excess of the tax credit
3 may be used as a credit against the taxpayer's tax liability for
4 the taxes set forth in this section in subsequent years until
5 exhausted; provided that the taxpayer may continue to claim the
6 credit provided in this section if the qualified costs are
7 incurred before June 1, 2009, subject to the monetary ceilings
8 in subsection (b).~~

~~9 (c) Every claim, including amended claims, for a tax
10 credit under this section shall be filed on or before the end of
11 the twelfth month following the close of the taxable year for
12 which the credit may be claimed. Failure to comply with the
13 foregoing provision shall constitute a waiver of the right to
14 claim the credit.~~

~~15 (f) If, at any time during the six-year period in which
16 tax credits are earned under this section, the costs incurred no
17 longer meet the definition of qualified costs, the credits
18 claimed under this section shall be recaptured. The recapture
19 shall be equal to one hundred per cent of the total tax credits
20 claimed under this section for the preceding taxable year,
21 provided that the amount of the credits recaptured shall apply
22 only to those costs that no longer meet the definition of~~

1 ~~qualified costs. The amount of the recaptured tax credits~~
2 ~~determined under this subsection shall be added to the~~
3 ~~taxpayer's tax liability for the taxable year in which the~~
4 ~~recapture occurs under this subsection.~~

5 ~~(g) If any credit is claimed under this section, then no~~
6 ~~taxpayer shall claim a credit under any chapter identified in~~
7 ~~this section for the same qualified costs for which a credit is~~
8 ~~claimed under this section.~~

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

15 ~~Every qualified taxpayer, no later than March 31 of each~~
16 ~~year in which qualified costs were expended in the previous~~
17 ~~taxable year, shall submit a written, certified statement to the~~
18 ~~director of business, economic development, and tourism, in the~~
19 ~~form specified by the director of business, economic~~
20 ~~development, and tourism, identifying:~~

21 ~~(1) Qualified costs, if any, expended in the previous~~
22 ~~taxable year;~~

- 1 ~~(2) The amount of tax credits claimed pursuant to this~~
2 ~~section, if any, in the previous taxable year; and~~
- 3 ~~(3) The tax liability under this chapter and chapters 237,~~
4 ~~237D, 238, 239, 241, and 431 against which the tax~~
5 ~~credits are claimed.~~

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

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

- 15 ~~(1) The amount of the qualified costs; and~~
- 16 ~~(2) The amount of tax credit that the taxpayer is allowed~~
17 ~~to use for the taxable year.~~

18 ~~The department of business, economic development, and~~
19 ~~tourism shall certify no more than \$7,500,000 in credits in the~~
20 ~~aggregate for all taxpayers for each taxable year; provided that~~
21 ~~the department may verify qualified costs of no more than~~
22 ~~\$75,000,000 from June 1, 2003, through May 31, 2009. The~~

1 ~~taxpayer shall file the certificate with the taxpayer's return~~
2 ~~with the department of taxation.~~

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

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

8 ~~"Makaha Resort" means the three hundred thirty-two acre~~
9 ~~property identified as tax map keys (1) 8-04-002 parcels 51, 52,~~
10 ~~53, 54, 55, and 67 and (1) 8-04-029-142.~~

11 ~~"Qualified costs" means any costs for plans, design, and~~
12 ~~construction, costs for equipment that is permanently affixed to~~
13 ~~a building or structure, and acquisition of facilities for~~
14 ~~educational purposes, up to a total of \$75,000,000 in the~~
15 ~~aggregate, incurred after May 31, 2003, and before June 1, 2009,~~
16 ~~at either or both of:~~

17 ~~(1) Ko Olina Resort and Marina for the development of~~
18 ~~facilities for attractions and educational purposes,~~
19 ~~and for infrastructure within the Ko Olina Resort and~~
20 ~~Marina that is directly related to those facilities,~~
21 ~~including a world-class aquarium, marine science and~~
22 ~~mammal research facilities, international sports~~

1 ~~training complex, a travel industry management intern~~
2 ~~campus, infrastructure for the transfer of ocean~~
3 ~~waters to the aquarium or marine mammal facilities, or~~
4 ~~both, seawater air conditioning, and other educational~~
5 ~~facilities developed or operated in cooperation with~~
6 ~~the University of Hawaii or other educational~~
7 ~~institutions; or~~

8 ~~(2) Makaha Resort for the development of a training and~~
9 ~~educational facility within a working resort and~~
10 ~~hotel;~~

11 ~~provided that "qualified costs" shall not include land~~
12 ~~acquisition costs.~~

13 ~~"Qualified taxpayer" means a person who fulfills the~~
14 ~~requirements of subsection (c)."]~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 SECTION 15. Section 235-110.6, Hawaii Revised Statutes, is
8 repealed.

9 ~~["**~~§235-110.6~~** **Fuel tax credit for commercial fishers.**~~

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

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

17 ~~(c) The tax credit claimed under this section by the~~
18 ~~principal operator shall be deductible from the principal~~
19 ~~operator's individual or corporate income tax liability, if any,~~
20 ~~for the tax year in which the credit is properly claimed;~~
21 ~~provided that a husband and wife filing separate returns for a~~
22 ~~taxable year for which a joint return could have been made by~~

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

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

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

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

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

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

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

8 SECTION 16. Section 235-110.7, Hawaii Revised Statutes, is
9 repealed.

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

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

1 ~~shall be four per cent. For taxpayers with fiscal taxable~~
2 ~~years, the applicable rate shall be the rate for the calendar~~
3 ~~year in which the eligible depreciable tangible personal~~
4 ~~property used in the trade or business is placed in service~~
5 ~~within Hawaii.~~

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

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

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

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

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

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

15 ~~(d) Sections 47 (with respect to dispositions of section~~
16 ~~38 property and the recapture percentages) of the Internal~~
17 ~~Revenue Code of 1954, as amended, as of December 31, 1984, and~~
18 ~~280F as operative for this chapter (with respect to limitation~~
19 ~~on investment tax credit and depreciation for luxury~~
20 ~~automobiles; limitation where certain property used for personal~~
21 ~~purposes) of the Internal Revenue Code of 1954, as amended,~~
22 ~~shall be operative for purposes of this section.~~

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

8 ~~As used in this section:~~

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

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

20 ~~"Placed in service" means the earliest of the following~~
21 ~~taxable years:~~

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

- 1 ~~(A) Taxpayer's depreciation practice, the period for~~
2 ~~depreciation; or~~
- 3 ~~(B) Accelerated cost recovery system, a claim for~~
4 ~~recovery allowances; with respect to such~~
5 ~~property begins; or~~
- 6 ~~(2) The taxable year in which the property is placed in a~~
7 ~~condition or state of readiness and availability for a~~
8 ~~specifically assigned function.~~

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

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

19 SECTION 17. Section 235-110.8, Hawaii Revised Statutes, is
20 repealed.

21 ~~[**"§235-110.8 Low-income housing tax credit.** (a) Section~~
22 ~~42 (with respect to low-income housing credit) of the Internal~~

1 ~~Revenue Code shall be operative for the purposes of this chapter~~
2 ~~as provided in this section.~~

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

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

18 ~~(d) For the purposes of this section, the determination~~
19 ~~of:~~

20 ~~(1) Qualified basis and qualified low-income building~~
21 ~~shall be made under section 42(c);~~

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

- 1 ~~(3) Qualified low-income housing project shall be made~~
2 ~~under section 42(g);~~
- 3 ~~(4) Recapture of credit shall be made under section 42(j),~~
4 ~~except that the tax for the taxable year shall be~~
5 ~~increased under section 42(j)(1) only with respect to~~
6 ~~credits that were used to reduce state income taxes;~~
- 7 ~~(5) Application of at-risk rules shall be made under~~
8 ~~section 42(k);~~
- 9 ~~of the Internal Revenue Code.~~
- 10 ~~(e) As provided in section 42(e), rehabilitation~~
11 ~~expenditures shall be treated as separate new building and their~~
12 ~~treatment under this section shall be the same as in section~~
13 ~~42(e). The definitions and special rules relating to credit~~
14 ~~period in section 42(f) and the definitions and special rules in~~
15 ~~section 42(i) shall be operative for the purposes of this~~
16 ~~section.~~
- 17 ~~(f) The state housing credit ceiling under section 42(h)~~
18 ~~shall be zero for the calendar year immediately following the~~
19 ~~expiration of the federal low-income housing tax credit program~~
20 ~~and for any calendar year thereafter, except for the carryover~~
21 ~~of any credit ceiling amount for certain projects in progress~~

1 ~~which, at the time of the federal expiration, meet the~~
2 ~~requirements of section 42.~~

3 ~~(g) The credit allowed under this section shall be claimed~~
4 ~~against net income tax liability for the taxable year. For the~~
5 ~~purpose of deducting this tax credit, net income tax liability~~
6 ~~means net income tax liability reduced by all other credits~~
7 ~~allowed the taxpayer under this chapter.~~

8 ~~A tax credit under this section which exceeds the~~
9 ~~taxpayer's income tax liability may be used as a credit against~~
10 ~~the taxpayer's income tax liability in subsequent years until~~
11 ~~exhausted. All claims for a tax credit under this section must~~
12 ~~be filed on or before the end of the twelfth month following the~~
13 ~~close of the taxable year for which the credit may be claimed.~~
14 ~~Failure to properly and timely claim the credit shall constitute~~
15 ~~a waiver of the right to claim the credit. A taxpayer may claim~~
16 ~~a credit under this section only if the building or project is a~~
17 ~~qualified low-income housing building or a qualified low-income~~
18 ~~housing project under section 42 of the Internal Revenue Code.~~

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

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

3 SECTION 18. Section 235-110.9, Hawaii Revised Statutes, is
4 repealed.

5 ~~["~~§235-110.9 High technology business investment tax~~~~
6 ~~credit.~~ (a) ~~There shall be allowed to each taxpayer subject to~~
7 ~~the taxes imposed by this chapter a high technology business~~
8 ~~investment tax credit that shall be deductible from the~~
9 ~~taxpayer's net income tax liability, if any, imposed by this~~
10 ~~chapter for the taxable year in which the investment was made~~
11 ~~and the following four years provided the credit is properly~~
12 ~~claimed. The tax credit shall be as follows:~~

- 13 ~~(1) In the year the investment was made, thirty-five per~~
14 ~~cent;~~
- 15 ~~(2) In the first year following the year in which the~~
16 ~~investment was made, twenty-five per cent;~~
- 17 ~~(3) In the second year following the investment, twenty~~
18 ~~per cent;~~
- 19 ~~(4) In the third year following the investment, ten per~~
20 ~~cent; and~~
- 21 ~~(5) In the fourth year following the investment, ten per~~
22 ~~cent;~~

1 ~~of the investment made by the taxpayer in each qualified high~~
2 ~~technology business, up to a maximum allowed credit in the year~~
3 ~~the investment was made, \$700,000; in the first year following~~
4 ~~the year in which the investment was made, \$500,000; in the~~
5 ~~second year following the year in which the investment was made,~~
6 ~~\$400,000; in the third year following the year in which the~~
7 ~~investment was made, \$200,000; and in the fourth year following~~
8 ~~the year in which the investment was made, \$200,000.~~

9 ~~(b) The credit allowed under this section shall be claimed~~
10 ~~against the net income tax liability for the taxable year. For~~
11 ~~the purpose of this section, "net income tax liability" means~~
12 ~~net income tax liability reduced by all other credits allowed~~
13 ~~under this chapter. By accepting an investment for which the~~
14 ~~credit allowed under this section may be claimed, a qualified~~
15 ~~high technology business consents to the public disclosure of~~
16 ~~the qualified high technology business' name and status as a~~
17 ~~beneficiary of the credit under this section.~~

18 ~~(c) If the tax credit under this section exceeds the~~
19 ~~taxpayer's income tax liability for any of the five years that~~
20 ~~the credit is taken, the excess of the tax credit over liability~~
21 ~~may be used as a credit against the taxpayer's income tax~~
22 ~~liability in subsequent years until exhausted. Every claim,~~

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

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

8 ~~(1) The business no longer qualifies as a qualified high~~
9 ~~technology business;~~

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

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

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

22 ~~(1), (2), or (3). The recapture provisions of this subsection~~

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

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

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

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

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

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

20 ~~(2) Verify the nature and amount of the qualifying~~
21 ~~investments;~~

1 ~~(3) Total all qualifying and cumulative investments that~~
2 ~~the department certifies; and~~

3 ~~(4) Certify the amount of the tax credit for each taxable~~
4 ~~year and cumulative amount of the tax credit.~~

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

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

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

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

21 ~~(1) The amount of the credit under this section that is,~~
22 ~~or is to be, received by or allocated to the taxpayer~~

1 ~~over the life of the investment, as a result of the~~
2 ~~investment; to~~

3 ~~(2) The amount of the investment in the qualified high~~
4 ~~technology business.~~

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

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

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

16 ~~(A) Products sold from, manufactured in, or produced~~
17 ~~in this State; or~~

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

19 ~~"Qualified research" means the same as defined in section~~
20 ~~235-7.3.~~

21 ~~(h) Common law principles, including the doctrine of~~
22 ~~economic substance and business purpose, shall apply to any~~

1 investment. There exists a presumption that a transaction
2 satisfies the doctrine of economic substance and business
3 purpose to the extent that the special allocation of the high
4 technology business tax credit has an investment tax credit
5 ratio of 1.5 or less of credit for every dollar invested.

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

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

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

17 SECTION 19. Section 235-110.91, Hawaii Revised Statutes,
18 is repealed.

19 ["~~§235-110.91 Tax credit for research activities.~~ (a)
20 Section 41 (with respect to the credit for increasing research
21 activities) and section 280C(c) (with respect to certain
22 expenses for which the credit for increasing research activities

1 ~~are allowable) of the Internal Revenue Code shall be operative~~
2 ~~for the purposes of this chapter as provided in this section;~~
3 ~~except that references to the base amount shall not apply and~~
4 ~~credit for all qualified research expenses may be taken without~~
5 ~~regard to the amount of expenses for previous years. If section~~
6 ~~41 of the Internal Revenue Code is repealed or terminated prior~~
7 ~~to January 1, 2011, its provisions shall remain in effect for~~
8 ~~purposes of the income tax law of the State as modified by this~~
9 ~~section, as provided for in subsection (j).~~

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

13 ~~(c) There shall be allowed to each qualified high~~
14 ~~technology business subject to the tax imposed by this chapter~~
15 ~~an income tax credit for qualified research activities equal to~~
16 ~~the credit for research activities provided by section 41 of the~~
17 ~~Internal Revenue Code and as modified by this section. The~~
18 ~~credit shall be deductible from the taxpayer's net income tax~~
19 ~~liability, if any, imposed by this chapter for the taxable year~~
20 ~~in which the credit is properly claimed.~~

21 ~~(d) Every qualified high technology business, before March~~
22 ~~31 of each year in which qualified research and development~~

1 ~~activity was conducted in the previous taxable year, shall~~
2 ~~submit a written, certified statement to the director of~~
3 ~~taxation identifying:~~

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

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

8 ~~(c) The department shall:~~

9 ~~(1) Maintain records of the names and addresses of the~~
10 ~~taxpayers claiming the credits under this section and~~
11 ~~the total amount of the qualified research and~~
12 ~~development activity costs upon which the tax credit~~
13 ~~is based;~~

14 ~~(2) Verify the nature and amount of the qualifying costs~~
15 ~~or expenditures;~~

16 ~~(3) Total all qualifying and cumulative costs or~~
17 ~~expenditures that the department certifies; and~~

18 ~~(4) Certify the amount of the tax credit for each taxable~~
19 ~~year and cumulative amount of the tax credit.~~

20 ~~Upon each determination made under this subsection, the~~
21 ~~department shall issue a certificate to the taxpayer verifying~~
22 ~~information submitted to the department, including the~~

1 ~~qualifying costs or expenditure amounts, the credit amount~~
2 ~~certified for each taxable year, and the cumulative amount of~~
3 ~~the tax credit during the credit period. The taxpayer shall~~
4 ~~file the certificate with the taxpayer's tax return with the~~
5 ~~department.~~

6 ~~The director of taxation may assess and collect a fee to~~
7 ~~offset the costs of certifying tax credit claims under this~~
8 ~~section. All fees collected under this section shall be~~
9 ~~deposited into the tax administration special fund established~~
10 ~~under section 235-20.5.~~

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

12 ~~"Basic research" under section 41(e) of the Internal~~
13 ~~Revenue Code shall not include research conducted outside of the~~
14 ~~State.~~

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

17 ~~"Qualified research" under section 41(d)(1) of the Internal~~
18 ~~Revenue Code shall not include research conducted outside of the~~
19 ~~State.~~

20 ~~(g) If the tax credit for qualified research activities~~
21 ~~claimed by a taxpayer exceeds the amount of income tax payment~~
22 ~~due from the taxpayer, the excess of the tax credit over~~

1 ~~payments due shall be refunded to the taxpayer; provided that no~~
2 ~~refund on account of the tax credit allowed by this section~~
3 ~~shall be made for amounts less than \$1.~~

4 ~~(h) All claims for a tax credit under this section shall~~
5 ~~be filed on or before the end of the twelfth month following the~~
6 ~~close of the taxable year for which the credit may be claimed.~~
7 ~~Failure to properly claim the credit shall constitute a waiver~~
8 ~~of the right to claim the credit.~~

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

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

13 SECTION 20. Section 235-110.93, Hawaii Revised Statutes,
14 is repealed.

15 ~~["~~§235-110.93~~ Important agricultural land qualified~~
16 ~~agricultural cost tax credit.~~ (a) ~~There shall be allowed to~~
17 ~~each taxpayer an important agricultural land qualified~~
18 ~~agricultural cost tax credit that may be claimed in taxable~~
19 ~~years beginning after the taxable year during which the tax~~
20 ~~credit under section 235-110.46 is repealed, exhausted, or~~
21 ~~expired. The credit shall be deductible from the taxpayer's net~~
22 ~~income tax liability, if any, imposed by this chapter for the~~

1 ~~taxable year in which the credit is properly claimed. The tax~~
2 ~~credit amount shall be determined as follows:~~

- 3 ~~(1) In the first year in which the credit is claimed,~~
4 ~~twenty five per cent of the lesser of the following:~~
5 ~~(A) The qualified agricultural costs incurred by the~~
6 ~~taxpayer after July 1, 2008; or~~
7 ~~(B) \$625,000;~~
- 8 ~~(2) In the second year in which the credit is claimed,~~
9 ~~fifteen per cent of the lesser of the following:~~
10 ~~(A) The qualified agricultural costs incurred by the~~
11 ~~taxpayer after July 1, 2008; or~~
12 ~~(B) \$250,000; and~~
- 13 ~~(3) In the third year in which the credit is claimed, ten~~
14 ~~per cent of the lesser of the following:~~
15 ~~(A) The qualified agricultural costs incurred by the~~
16 ~~taxpayer after July 1, 2008; or~~
17 ~~(B) \$125,000.~~

18 ~~The taxpayer may incur qualified agricultural costs during a~~
19 ~~taxable year in anticipation of claiming the credit in future~~
20 ~~taxable years during which the credit is available. The~~
21 ~~taxpayer may claim the credit in any taxable year after the~~
22 ~~taxable year during which the taxpayer incurred the qualified~~

1 ~~agricultural costs upon which the credit is claimed. The~~
2 ~~taxpayer also may claim the credit in consecutive or~~
3 ~~inconsecutive taxable years until exhausted.~~

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

7 ~~(c) The amount of the qualified agricultural costs~~
8 ~~eligible to be claimed under this section shall be reduced by~~
9 ~~the amount of funds received by the taxpayer during the taxable~~
10 ~~year from the irrigation repair and maintenance special fund~~
11 ~~under section 167-24.~~

12 ~~(d) The cost upon which the tax credit is computed shall~~
13 ~~be determined at the entity level. In the case of a~~
14 ~~partnership, S corporation, estate, trust, or other pass through~~
15 ~~entity, distribution and share of the credit shall be determined~~
16 ~~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 qualified agricultural cost for which a deduction was taken.~~

21 ~~The basis of eligible property for depreciation or~~
22 ~~accelerated cost recovery system purposes for state income taxes~~

1 ~~shall be reduced by the amount of credit allowable and claimed.~~
2 ~~No deduction shall be allowed for that portion of otherwise~~
3 ~~deductible qualified agricultural costs on which a credit is~~
4 ~~claimed under this section.~~

5 ~~(c) If the credit under this section exceeds the~~
6 ~~taxpayer's net income tax liability for the taxable year, the~~
7 ~~excess of the credit over liability shall be refunded to the~~
8 ~~taxpayer; provided that no refunds or payments on account of the~~
9 ~~credits allowed by this section shall be made for amounts less~~
10 ~~than \$1.~~

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

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

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

20 ~~(2) May require the taxpayer to furnish information to~~
21 ~~ascertain the validity of the claim for credit made~~
22 ~~under this section; and~~

1 ~~(3) May adopt rules pursuant to chapter 91 to effectuate~~
2 ~~this section.~~

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

4 ~~(1) Maintain records of the total amount of qualified~~
5 ~~agricultural costs for each taxpayer claiming a~~
6 ~~credit;~~

7 ~~(2) Verify the amount of the qualified agricultural costs~~
8 ~~claimed;~~

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

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

12 ~~Upon each determination, the department of agriculture~~
13 ~~shall issue a certificate to the taxpayer verifying the~~
14 ~~qualifying agricultural costs and the credit amount certified~~
15 ~~for each taxable year. For a taxable year, the department of~~
16 ~~agriculture may certify a credit for a taxpayer who could have~~
17 ~~claimed the credit in a previous taxable year, but chose not to~~
18 ~~because the maximum annual credit amount under subsection (h)~~
19 ~~was reached in that taxable year.~~

20 ~~The taxpayer shall file the certificate with the taxpayer's~~
21 ~~tax return with the department of taxation. Notwithstanding the~~
22 ~~department of agriculture's certification authority under this~~

1 ~~section, the director of taxation may audit and adjust~~
2 ~~certification to conform to the facts.~~

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

6 ~~(h) If in any taxable year the annual amount of certified~~
7 ~~credits reaches \$7,500,000 in the aggregate, the department of~~
8 ~~agriculture shall immediately discontinue certifying credits and~~
9 ~~notify the department of taxation. In no instance shall the~~
10 ~~department of agriculture certify a total amount of credits~~
11 ~~exceeding \$7,500,000 per taxable year. To comply with this~~
12 ~~restriction, the department of agriculture shall certify credits~~
13 ~~on a first come, first served basis.~~

14 ~~The department of taxation shall not allow the aggregate~~
15 ~~amount of credits claimed to exceed that amount per taxable~~
16 ~~year.~~

17 ~~(i) The department of agriculture, in consultation with~~
18 ~~the department of taxation, shall annually determine the~~
19 ~~information necessary to provide a quantitative and qualitative~~
20 ~~assessment of the outcomes of the tax credit.~~

21 ~~Every taxpayer, no later than the last day of the taxable~~
22 ~~year following the close of the taxpayer's taxable year in which~~

1 ~~the credit is claimed, shall submit a certified written~~
2 ~~statement to the department of agriculture. Failure to provide~~
3 ~~the information shall result in ineligibility and a recapture of~~
4 ~~any credit already claimed for that taxable year. The amount of~~
5 ~~the recaptured tax credit shall be added to the taxpayer's tax~~
6 ~~liability for the taxable year in which the recapture occurs.~~

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

9 ~~(j) The department of agriculture, in consultation with~~
10 ~~the department of taxation, shall annually submit a report~~
11 ~~evaluating the effectiveness of the tax credit. The report~~
12 ~~shall include but not be limited to findings and recommendations~~
13 ~~to improve the effectiveness of the tax credit to further~~
14 ~~encourage the development of agricultural businesses.~~

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

16 ~~"Agricultural business" means any person with a commercial~~
17 ~~agricultural, silvicultural, or aquacultural facility or~~
18 ~~operation, including:~~

19 ~~(1) The care and production of livestock and livestock~~
20 ~~products, poultry and poultry products, apiary~~
21 ~~products, and plant and animal production for nonfood~~
22 ~~uses;~~

- 1 ~~(2) The planting, cultivating, harvesting, and processing~~
2 ~~of crops; and~~
- 3 ~~(3) The farming or ranching of any plant or animal species~~
4 ~~in a controlled salt, brackish, or freshwater~~
5 ~~environment;~~
- 6 ~~provided that the principal place of the agricultural business~~
7 ~~is maintained in the State and more than fifty per cent of the~~
8 ~~land the agricultural business owns or leases, excluding land~~
9 ~~classified as conservation land, is important agricultural land.~~
- 10 ~~"Important agricultural lands" means lands identified and~~
11 ~~designated as important agricultural lands pursuant to part III~~
12 ~~of chapter 205.~~
- 13 ~~"Net income tax liability" means income tax liability~~
14 ~~reduced by all other credits allowed under this chapter.~~
- 15 ~~"Qualified agricultural costs" means expenditures for:~~
- 16 ~~(1) The plans, design, engineering, construction,~~
17 ~~renovation, repair, maintenance, and equipment for:~~
- 18 ~~(A) Roads or utilities, primarily for agricultural~~
19 ~~purposes, where the majority of the lands~~
20 ~~serviced by the roads or utilities, excluding~~
21 ~~lands classified as conservation lands, are~~
22 ~~important agricultural lands;~~

Report Title:

Sunset; Repeal Tax Credits

Description:

Sunsets and repeals all tax credits for taxable years beginning after 12/31/10. (SD1)

- 1 ~~(B) Agricultural processing facilities in the State,~~
2 ~~primarily for agricultural purposes, where the~~
3 ~~majority of the crops or livestock processed,~~
4 ~~harvested, treated, washed, handled, or packaged~~
5 ~~are from agricultural businesses;~~
- 6 ~~(C) Water wells, reservoirs, dams, water storage~~
7 ~~facilities, water pipelines, ditches, or~~
8 ~~irrigation systems in the State, primarily for~~
9 ~~agricultural purposes, providing water for lands,~~
10 ~~the majority of which, excluding lands classified~~
11 ~~as conservation lands, are important agricultural~~
12 ~~lands; and~~
- 13 ~~(D) Agricultural housing in the State, exclusively~~
14 ~~for agricultural purposes; provided that:~~
- 15 ~~(i) The housing units are occupied solely by~~
16 ~~farmers or employees for agricultural~~
17 ~~businesses and their immediate family~~
18 ~~members;~~
- 19 ~~(ii) The housing units are owned by the~~
20 ~~agricultural business;~~
- 21 ~~(iii) The housing units are in the general~~
22 ~~vicinity, as determined by the department of~~

- 1 ~~agriculture, of agricultural lands owned or~~
2 ~~leased by the agricultural business; and~~
- 3 ~~(iv) The housing units conform to any other~~
4 ~~conditions that may be required by the~~
5 ~~department of agriculture;~~
- 6 ~~(2) Feasibility studies, regulatory processing, and legal~~
7 ~~and accounting services related to the items under~~
8 ~~paragraph (1);~~
- 9 ~~(3) Equipment, primarily for agricultural purposes, used~~
10 ~~to cultivate, grow, harvest, or process agricultural~~
11 ~~products by an agricultural business; and~~
- 12 ~~(4) Regulatory processing, studies, and legal and other~~
13 ~~consultant services related to obtaining or retaining~~
14 ~~sufficient water for agricultural activities and~~
15 ~~retaining the right to farm on lands identified as~~
16 ~~important agricultural lands.~~
- 17 ~~(1) The department of agriculture shall cease certifying~~
18 ~~credits pursuant to this section after the fourth taxable year~~
19 ~~following the taxable year during which the credits are first~~
20 ~~claimed; provided that a taxpayer with accumulated, but~~
21 ~~unclaimed, certified credits may continue claiming the credits~~
22 ~~in subsequent taxable years until exhausted.~~

1 ~~[(m)] The department of taxation, in consultation with the~~
2 ~~department of agriculture, shall submit to the legislature an~~
3 ~~annual report, no later than twenty days prior to the convening~~
4 ~~of each regular session, beginning with the regular session of~~
5 ~~2010, regarding the quantitative and qualitative assessment of~~
6 ~~the impact of the important agricultural land qualified~~
7 ~~agricultural cost tax credit."]~~

8 SECTION 21. If the repeal date established in this Act is
9 in conflict with the repeal date of a specific tax credit, then
10 the repeal date specified in the tax credit shall apply.

11 SECTION 22. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 23. This Act shall take effect on July 1, 2090;
14 provided that sections 2 to 20 shall apply to taxable years
15 beginning after December 31, 2010.