



GOV. MSG. NO. **1354**

EXECUTIVE CHAMBERS  
HONOLULU

DAVID Y. IGE  
GOVERNOR

July 12, 2016

The Honorable Ronald D. Kouchi,  
President  
and Members of the Senate  
Twenty-Eighth State Legislature  
State Capitol, Room 409  
Honolulu, Hawai'i 96813

The Honorable Joseph M. Souki,  
Speaker and Members of the  
House of Representatives  
Twenty-Eighth State Legislature  
State Capitol, Room 431  
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Souki, and Members of the Legislature:

This is to inform you that on July 12, 2016, the following bill was signed into law:

HB1527 HD1 SD1 CD1

RELATING TO TAXATION  
**ACT 245 (16)**

Sincerely,

DAVID Y. IGE  
Governor, State of Hawai'i

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# A BILL FOR AN ACT

RELATING TO TAXATION.

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

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

16 However, the legislature also believes that certain tax  
17 credits, exclusions, and deductions are worthy of continuation  
18 for equity, efficiency, and economic and social policy. The



1 legislature finds that independent review by the state auditor  
2 would help the legislature to identify and affirm the credits,  
3 exclusions, and deductions that represent good public policy.

4 Accordingly, the purpose of this Act is to require the  
5 state auditor to periodically review certain tax credits,  
6 exclusions, and deductions for the income tax under chapter 235,  
7 Hawaii Revised Statutes, and the financial institutions tax  
8 under chapter 241, Hawaii Revised Statutes. The legislature  
9 finds that this Act is necessary to promote tax equity and  
10 efficiency, adequacy of state revenues, public transparency, and  
11 confidence in a fair state government.

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

15 "PART . REVIEW OF TAX CREDITS, EXCLUSIONS, AND DEDUCTIONS

16 §23-A Review of certain credits, exclusions, and  
17 deductions under the income tax and financial institutions tax.

18 (a) The auditor shall conduct a review of the tax credits,  
19 exclusions, and deductions listed in sections 23-B to 23-F.

20 (b) In the review of a credit, exclusion, or deduction,  
21 the auditor shall:



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



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

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

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

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

15 The cost shall be estimated by dividing the annual tax  
16 expenditure for the credit, exclusion, or deduction  
17 for each fiscal year under review by the number of  
18 low-income residents of the State in the fiscal year.  
19 The estimate determined pursuant to this paragraph is  
20 intended to display the effect on low-income residents  
21 of the State if they directly receive, either through



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

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

6 The auditor may recommend that a credit, exclusion, or  
7 deduction be removed from review under sections 23-B to 23-F.

8 §23-B Review for 2019 and every fifth year thereafter.

9 (a) The credits under the income tax and financial institutions  
10 tax listed in subsection (c) shall be reviewed in 2019 and every  
11 fifth year thereafter.

12 (b) The auditor shall submit the findings and  
13 recommendations of the reviews to the legislature and governor  
14 at least twenty days prior to the convening of the immediately  
15 following regular session.

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

17 (1) Sections 235-12.5 and 241-4.6--Credit for renewable  
18 energy technology system installed and placed in  
19 service in the State. For the purpose of section 23-  
20 A(b) (5), this credit shall be deemed to have been  
21 enacted for an economic benefit; and



1           (2) Section 235-17--Credit for qualified production costs  
2                    incurred for a qualified motion picture, digital  
3                    media, or film production.

4           §23-C Review for 2020 and every fifth year thereafter.

5           (a) The credits, exclusions, and deductions under the income  
6 tax and financial institutions tax listed in subsection (c)  
7 shall be reviewed in 2020 and every fifth year thereafter.

8           (b) The auditor shall submit the findings and  
9 recommendations of the reviews to the legislature and governor  
10 at least twenty days prior to the convening of the immediately  
11 following regular session.

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

13           (1) Section 235-7.3--Exclusion of royalties and other  
14 income derived from a patent, copyright, or trade  
15 secret of a qualified high technology business;

16           (2) Section 235-9.5--Exclusion for income and proceeds  
17 from stock options or stocks of a qualified high  
18 technology business or a holding company for a  
19 qualified high technology business;

20           (3) Sections 235-17.5 and 241-4.4--Credit for capital  
21 infrastructure costs;



1 (4) Sections 235-110.7 and 241-4.5--Credit for capital  
2 goods used by a trade or business;

3 (5) Section 235-110.91--Credit for research activity;

4 (6) Section 235-110.3--Credit for ethanol facility; and

5 (7) Section 241-3.5--Deduction for adjusted eligible net  
6 income of an international banking facility.

7 §23-D Review for 2021 and every fifth year thereafter.

8 (a) The credits and exclusions under the income tax listed in  
9 subsection (c) shall be reviewed in 2021 and every fifth year  
10 thereafter.

11 (b) The auditor shall submit the findings and  
12 recommendations of the reviews to the legislature and governor  
13 at least twenty days prior to the convening of the immediately  
14 following regular session.

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

16 (1) Section 235-4.5(a)--Exclusion of intangible income  
17 earned by a trust sited in this State;

18 (2) Section 235-4.5(b)--Exclusion of intangible income of  
19 a foreign corporation owned by a trust sited in this  
20 State;



- 1 (3) Section 235-4.5(c)--Credit to a resident beneficiary  
2 of a trust for income taxes paid by the trust to  
3 another state;
- 4 (4) Sections 235-55 and 235-129--Credit for income taxes  
5 paid by a resident taxpayer to another jurisdiction;
- 6 (5) Section 235-71(c)--Credit for a regulated investment  
7 company shareholder for the capital gains tax paid by  
8 the company;
- 9 (6) Section 235-110.6--Credit for fuel taxes paid by a  
10 commercial fisher;
- 11 (7) Section 235-110.93--Credit for important agricultural  
12 land qualified agricultural cost;
- 13 (8) Section 235-129(b)--Credit to S corporation  
14 shareholder for pro rata share of the tax credit  
15 earned by the S corporation in this State; and
- 16 (9) Section 209E-10--Credit for a qualified business in an  
17 enterprise zone; provided that the review of this  
18 credit pursuant to this part shall be limited in scope  
19 to income tax credits.
- 20 §23-E Review for 2022 and every fifth year thereafter.
- 21 (a) The credits and deductions under the income tax and



1 financial institutions tax listed in subsection (c) shall be  
2 reviewed in 2022 and every fifth year thereafter.

3 (b) The auditor shall submit the findings and  
4 recommendations of the reviews to the legislature and governor  
5 at least twenty days prior to the convening of the immediately  
6 following regular session.

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

- 8 (1) Section 235-5.5--Deduction for individual housing  
9 account deposit;
- 10 (2) Section 235-7(f)--Deduction of property loss due to a  
11 natural disaster;
- 12 (3) Section 235-16.5--Credit for cesspool upgrade,  
13 conversion, or connection;
- 14 (4) Section 235-19--Deduction for maintenance of an  
15 exceptional tree;
- 16 (5) Section 235-55.91--Credit for the employment of a  
17 vocational rehabilitation referral;
- 18 (6) Section 235-110.2--Credit for in-kind services  
19 contribution for public school repair and maintenance;  
20 and



1 (7) Sections 235-110.8 and 241-4.7--Credit for ownership  
2 of a qualified low-income housing building.

3 §23-F Review for 2023 and every fifth year thereafter.

4 (a) The credits under the income tax listed in subsection (c)  
5 shall be reviewed in 2023 and every fifth year thereafter.

6 (b) The auditor shall submit the findings and  
7 recommendations of the reviews to the legislature and governor  
8 at least twenty days prior to the convening of the immediately  
9 following regular session.

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

11 (1) Section 235-15--Credit for purchase of child passenger  
12 restraint system;

13 (2) Section 235-55.6--Credit for employment-related  
14 expenses for household and dependent care services;

15 (3) Section 235-55.7--Credit for a low-income household  
16 renter; and

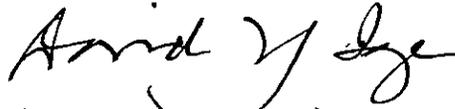
17 (4) Section 235-55.85--Credit for food and excise tax."

18 SECTION 3. In codifying the new sections added by section  
19 2 of this Act, the revisor of statutes shall substitute  
20 appropriate section numbers for the letters used in designating  
21 the new sections in this Act.



1 SECTION 4. This Act shall take effect on July 1, 2018.

APPROVED this 12 day of JUL , 2016



GOVERNOR OF THE STATE OF HAWAII

