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# A BILL FOR AN ACT

RELATING TO LONG-TERM CARE.

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

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

4                           **"PART           .   LONG-TERM CARE INCOME TAX**

5           **§235-A Purpose.** The purpose of this part is to implement  
6 chapter 346C.

7           **§235-B Long-term care income tax imposed on individuals;**  
8 **rates; withholding; self-employed; tax form; exclusions;**  
9 **scheduled increases.** (a) In addition to the tax imposed under  
10 section 235-51, there is hereby imposed on the taxable income of  
11 every:

12           (1) Unmarried individual (other than a surviving spouse,  
13               or the head of a household);

14           (2) Married individual who does not make a single return  
15               jointly with the individual's spouse under section  
16               235-93;

17           (3) Surviving spouse;

18           (4) Head of a household; and



1           (5) Trust; provided that the beneficiary of the trust is  
 2           not also subject to the tax imposed under this  
 3           section,

4 a long-term care tax in the amount of \$120 in each taxable year  
 5 beginning in the taxable year after December 31, 2008. A  
 6 taxpayer who files a joint return under section 235-93, and the  
 7 taxpayer's spouse together with whom the taxpayer jointly files  
 8 a return, shall each pay the amount of the tax.

9           (b) Any taxpayer under subsection (a) who has wages  
 10 withheld pursuant to section 235-61, shall be subject to this  
 11 section.

12           (c) Any self-employed taxpayer, who is required to file a  
 13 return individually or jointly under this chapter, or any other  
 14 taxpayer who is either required or elects to make estimated tax  
 15 payments, shall include the amount of the long-term care income  
 16 tax in the amount of estimated tax payments made for the taxable  
 17 year.

18           (d) The long-term care income tax shall be increased as  
 19 follows:

For the taxable year beginning after:	The tax shall be:
December 31, 2009	\$144;
December 31, 2010	\$168;



1	December 31, 2011	\$192;
2	December 31, 2012	\$216;
3	December 31, 2013	\$240;
4	December 31, 2014	\$264;
5	December 31, 2015	\$276.

6 (e) For taxable years beginning after December 31, 2016,  
7 the board of trustees shall recommend to the legislature for  
8 consideration in the regular session of 2015, any adjustment to  
9 the amount of the long-term care income tax; provided that the  
10 recommendation shall be substantiated by an actuarial report and  
11 opinion similar to that required under chapter 346C.

12 (f) The tax under this chapter shall not be imposed on the  
13 taxable income of a taxpayer taxed pursuant to section 235-51(c)  
14 or (d) if the taxpayer's gross income is less than \$10,000, or a  
15 taxpayer taxed pursuant to section 235-51(a) or (b) if the  
16 taxpayer's gross income is less than \$16,000.

17 (g) The tax under this section shall not be imposed upon a  
18 person receiving defined benefits under section 235-F.

19 **§235-C Portability; conformity to federal law.** (a) A  
20 person vested to receive defined benefits who leaves the State  
21 and is not required to file a return may continue to be vested  
22 if the person makes payment to the board of trustees established



1 under chapter 346C, in the manner and amount as determined by  
2 the board.

3 (b) Payment of defined benefits under section 235-F shall  
4 be made without regard to the place of residence, including the  
5 state or country, of the person vested under section 235-E.

6 **§235-D Withholding of long-term income tax on wages.** (a)

7 The terms "wages", "employee", and "employer" shall have the  
8 same meaning as defined in section 235-61.

9 (b) Every employer who pays wages to employees shall  
10 deduct and withhold from those wages the amount of tax as  
11 provided in section 235-B.

12 (c) For each withholding period (whether weekly, biweekly,  
13 monthly, or otherwise) the amount of tax to be withheld shall be  
14 at a rate that, for the taxable year, will yield the tax imposed  
15 by section 235-51 and by this part upon each employee's annual  
16 wage, as estimated from the employee's current wage in any  
17 withholding period. The tax for the taxable year shall be  
18 calculated upon the assumptions contained in section 235-61(c).

19 (d) Alternatively, at the election of the employer, the  
20 employer may deduct and withhold from each employee an amount of  
21 tax determined on the basis of tables to be prepared and  
22 furnished by the department of taxation, which amount of tax



1 shall be substantially equivalent to the amount of tax provided  
2 by subsection (c).

3       **§235-E Vesting to receive a defined benefit.** (a) Any  
4 individual who has paid the long-term care income tax under  
5 section 235-B for ten years, shall be fully vested to receive  
6 the defined benefit provided under section 235-F, but shall  
7 continue to be subject to the income tax under section 235-B.

8       (b) An individual shall earn one-tenth of the defined  
9 benefit under section 235-F for each consecutive twelve-month  
10 period that the individual pays the income tax under section  
11 235-B. An individual shall be allowed twelve consecutive months  
12 of nonpayment of the income tax without penalty; provided that  
13 after the twelve consecutive months of nonpayment, the  
14 individual shall forfeit one-tenth of the defined benefit amount  
15 for each year of nonpayment.

16       (c) If an individual dies before January 1, 2012, the  
17 estate or heirs, as appropriate, of that individual may make a  
18 claim for reimbursement of the income taxes paid under section  
19 235-B by the individual.

20       **§235-F Defined benefit.** (a) Beginning January 1, 2012,  
21 payment of a defined benefit for long-term care services shall  
22 commence. The defined benefit shall be \$70 a day up to a



1 cumulative period of three hundred sixty-five days; provided  
2 that the daily defined benefit may be adjusted from time to time  
3 by the board of trustees in accordance with chapter 346C.

4 (b) The defined benefit shall begin after the thirtieth  
5 day following the date of the approval of the written  
6 certification under section 346C-8 and shall be made to the  
7 recipient of a long-term care service, or to the legal  
8 representative of the recipient in the name of the recipient, as  
9 a reimbursement for long-term care service expenditures. The  
10 amount of the defined benefit shall not be qualified by the  
11 income of the recipient.

12 (c) The defined benefit under this program shall be  
13 primary to private insurance and Medicaid benefits. An  
14 individual shall not receive a defined benefit while the  
15 individual is receiving Medicare benefits for long-term care;  
16 provided that if Medicare benefits are exhausted, the individual  
17 shall be required to qualify under section 346C-8.

18 (d) The defined benefit received under this section shall  
19 not be subject to state income tax.

20 **§235-G Remittance.** Each month, the director of taxation  
21 shall remit the amount of long-term care income taxes that are  
22 paid, prepaid in estimated tax payments, or deposited with the



1 department for that month to the board of trustees of the long-  
2 term care financing program for deposit into the long-term care  
3 benefits fund.

4       **§235-H Annual data.** The director of taxation shall  
5 compile in machine-readable files (read-only computer compact  
6 disk or other suitable media) annual data on taxpayers subject  
7 to the long-term care income tax, payments, and amounts of  
8 payments made. The data so compiled shall be:

9       (1) Transmitted to the board of trustees of the long-term  
10 care financing program annually no later than three  
11 months after the date on which individual income tax  
12 returns are due; and

13       (2) Used by the board of trustees of the long-term care  
14 financing program solely for the purpose of:

15       (A) Maintaining an administrative file of taxpayers  
16 eligible for long-term care benefits under  
17 chapter 346C;

18       (B) Recording and updating the amount of premiums  
19 paid or unpaid;

20       (C) Determining the payment status of each individual  
21 taxpayer eligible for long-term care benefits  
22 under chapter 346C; and



1 (D) Computing vesting credits gained or lost for  
2 eligible taxpayers.

3 **§235-I Long-term care benefits; disbursement; benefit**  
4 **levels; delinquency; loss carryback; adjustment and actuarial**  
5 **review.** (a) The proceeds of the long-term care income tax  
6 shall be deposited into the long-term care benefits fund created  
7 in section 346C-5. Benefit disbursements shall begin no earlier  
8 than the day following the end of the third year of long-term  
9 care income tax collections.

10 (b) The initial benefit level shall be \$70 per day for  
11 three hundred sixty-five days, subject to restrictions imposed  
12 by the required vesting period, for long-term care services as  
13 described in section 431:10H-301(c). The benefits shall  
14 increase as follows:

- 15 (1) \$72.10 per day on January 1, 2013;
- 16 (2) \$74.26 per day on January 1, 2014;
- 17 (3) \$76.49 per day on January 1, 2015;
- 18 (4) \$78.79 per day on January 1, 2016;
- 19 (5) \$81.15 per day on January 1, 2017;
- 20 (6) \$83.58 per day on January 1, 2018, and thereafter.

21 (c) For any individual who is subject to the long-term  
22 care income tax and who:



1           (1) Is or has been delinquent in paying the tax; and  
2           (2) Begins to pay overdue back taxes within three years of  
3           the initial delinquency,  
4 any such delinquent long-term care income tax payments may be  
5 credited to the individual's vesting record and restore any  
6 benefit loss up to that point.

7           (d) Prior to any adjustment to the amount of the long-term  
8 care benefit, the board of trustees shall request a review and  
9 an opinion by the actuary in the actuarial report required under  
10 chapter 346C.

11           **§235-J Confidentiality.** (a) For purposes of this part  
12 and chapter 346C, the director of taxation shall provide  
13 annually to the board of trustees of the long-term care  
14 financing program the following information from the most recent  
15 tax return concerning each taxpayer filing a single or a joint  
16 return, who has paid the long-term care income tax:

- 17           (1) Name, address, social security number;  
18           (2) Filing status;  
19           (3) Taxable year and date of filing of the tax return; and  
20           (4) Amount of long-term care income tax paid by the  
21           taxpayer, indicating the total amount paid in the case  
22           of a joint return.



1 (b) The information under subsection (a) shall be used by  
2 the board of trustees solely for the purpose of section 235-H;  
3 provided that the information may be accessed by a qualified  
4 entity contracted under section 346C-4(b).

5 (c) Disclosure of information under this section shall  
6 apply notwithstanding section 235-116."

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

10 "§235- Long-term care benefits excluded from taxation.

11 Notwithstanding any law to the contrary, all defined benefits  
12 paid under section 235-F shall be excluded from taxation under  
13 this chapter and need not be reported as income.

14 §235- Long-term care tax credit. (a) Each individual

15 taxpayer who files an individual income tax return for a taxable  
16 year, and who is not claimed or is not otherwise eligible to be  
17 claimed as a dependent by another taxpayer for Hawaii state  
18 individual income tax purposes, may claim a long-term care tax  
19 credit against the taxpayer's net individual income tax  
20 liability for the taxable year for which the individual's income  
21 tax return is being filed; provided that an individual who has  
22 no income or no income taxable under this chapter, and who is



1 not claimed or is not otherwise eligible to be claimed as a  
2 dependent by a taxpayer for Hawaii state individual income tax  
3 purposes may claim this credit.

4 (b) Each taxpayer may claim a tax credit in an amount  
5 equal to \$120 for each taxable year beginning after December 31,  
6 2009, and ending before January 1, 2013. For taxable years  
7 beginning after December 31, 2012, and ending before January 1,  
8 2018, the tax credit shall be equal to \$180.

9 (c) If a deduction is taken under this chapter pursuant to  
10 section 213 (with respect to the deduction for long-term costs  
11 and insurance contract premiums) of the Internal Revenue Code,  
12 no tax credit shall be allowed.

13 (d) The credit shall apply to a taxpayer who has paid the  
14 long-term care income tax under section 235-B and has made  
15 premium payments during the taxable year for a long-term care  
16 insurance policy that is subject to chapter 431:10H that covers:

- 17 (1) The taxpayer;
- 18 (2) The taxpayer's dependent as defined in section 152 of  
19 the Internal Revenue Code;
- 20 (3) The taxpayer's spouse;
- 21 (4) A son or daughter of the taxpayer;
- 22 (5) A stepson or stepdaughter of the taxpayer;



1       (6) The father or mother of the taxpayer; or

2       (7) A stepfather or stepmother of the taxpayer.

3       (e) For the purpose of this credit, "net income tax  
4 liability" means net income tax liability reduced by all other  
5 credits allowed under this chapter. If the tax credits claimed  
6 by a taxpayer exceed the amount of income tax payment due from  
7 the taxpayer, the excess of credits over payments due shall be  
8 refunded to the taxpayer; provided that tax credits properly  
9 claimed by an individual who has no income tax liability shall  
10 be paid to the individual; and provided further that no refunds  
11 or payment on account of the tax credit allowed by this section  
12 shall be made for amounts less than \$1.

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

19       SECTION 3. Chapter 346C, Hawaii Revised Statutes, is  
20 amended by adding a new section to be appropriately designated  
21 and to read as follows:



1            "§346C-        Actuarial report and actuarial opinion.    (a)

2   The board of trustees of the long-term care financing program  
3   shall cause to be prepared an actuarial report and actuarial  
4   opinion, as defined by the Actuarial Standards Board of the  
5   American Academy of Actuaries. The report and opinion shall be  
6   prepared by a member of the American Academy of Actuaries who is  
7   a fellow of the Society of Actuaries, certifying that the  
8   program is in actuarial balance. Costs of the actuarial report  
9   shall be deemed an administrative expense under section  
10 346C-5 (b) .

11            (b) The actuarial report shall contain a statement by the  
12 actuary certifying that the techniques and methods used are  
13 generally accepted within the actuarial profession and that the  
14 assumptions and cost estimates used are reasonable. The report  
15 shall include:

16            (1) An estimate of the expected future income to, and the  
17            disbursements to be made from the long-term care  
18            benefits trust fund during each of the next ensuing  
19            ten fiscal years;

20            (2) A projection of the tax rates necessary to keep the  
21            long-term care benefits trust fund actuarially sound  
22            over the short-range and long-range future periods;



1       (3) A statement of actuarial assumptions and methods used  
2       to determine costs and a detailed explanation of any  
3       change in actuarial assumptions or methods;

4       (4) The current and projected number of participants and  
5       beneficiaries and the current and projected amounts  
6       paid in taxes, defined benefits, current and permanent  
7       defined benefits, and the like, aggregated by current  
8       and past Hawaii taxpayer status and age;

9       (5) The current value of accumulated assets of the long-  
10       term care financing program and the value of assets  
11       used by the actuary in any computation of the amount  
12       of required taxes; and

13       (6) The results of short-range and long-range actuarial  
14       sensitivity analyses.

15       (c) Based upon the actuarial report and actuarial opinion  
16       under subsection (a), the board of trustees may adjust the  
17       defined benefit under section 235-F.

18       (d) All work products, papers, documents, and data used or  
19       prepared by the actuary in preparing the actuarial report shall  
20       be subject to chapter 92F.

21       (e) The actuarial report shall demonstrate actuarial  
22       solvency for seventy-five years, and be submitted annually to



1 the governor and the legislature twenty days prior to the  
2 convening of every legislative session."

3 SECTION 4. Section 36-27, Hawaii Revised Statutes, is  
4 amended to read as follows:

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

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



- 1 (10) Funds of the employees' retirement system created by
- 2 section 88-109;
- 3 (11) Unemployment compensation fund established under
- 4 section 383-121;
- 5 (12) Hawaii hurricane relief fund established under chapter
- 6 431P;
- 7 (13) Hawaii health systems corporation special funds;
- 8 (14) Tourism special fund established under section
- 9 201B-11;
- 10 (15) Universal service fund established under chapter 269;
- 11 (16) Integrated tax information management systems special
- 12 fund under section 231-3.2;
- 13 (17) Emergency and budget reserve fund under section
- 14 328L-3;
- 15 (18) Public schools special fees and charges fund under
- 16 section 302A-1130(f);
- 17 (19) Sport fish special fund under section 187A-9.5;
- 18 (20) Neurotrauma special fund under section 321H-4;
- 19 (21) Deposit beverage container deposit special fund under
- 20 section 342G-104;
- 21 (22) Glass advance disposal fee special fund established by
- 22 section 342G-82;



- 1 (23) Center for nursing special fund under section [+]304A-
- 2 2163[+];
- 3 (24) Passenger facility charge special fund established by
- 4 section 261-5.5;
- 5 (25) Solicitation of funds for charitable purposes special
- 6 fund established by section 467B-15;
- 7 (26) Land conservation fund established by section 173A-5;
- 8 (27) Court interpreting services revolving fund under
- 9 section 607-1.5;
- 10 (28) Trauma system special fund under section 321-22.5;
- 11 (29) Hawaii cancer research special fund;
- 12 (30) Community health centers special fund; [~~and~~]
- 13 (31) Emergency medical services special fund [+]; and
- 14 (32) Long-term care benefits trust fund established by
- 15 section 346C-5;

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



1 calculated, the director shall adopt rules pursuant to chapter  
2 91 for the purpose of suspending or limiting the application of  
3 the central service assessment of any fund. No later than  
4 twenty days prior to the convening of each regular session of  
5 the legislature, the director shall report all central service  
6 assessments made during the preceding fiscal year.[+]"

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

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

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



- 1           (9)    Unemployment compensation fund established under
- 2                    section 383-121;
- 3           (10)   Hawaii hurricane relief fund established under chapter
- 4                    431P;
- 5           (11)   Convention center enterprise special fund established
- 6                    under section 201B-8;
- 7           (12)   Hawaii health systems corporation special funds;
- 8           (13)   Tourism special fund established under section
- 9                    201B-11;
- 10          (14)   Universal service fund established under chapter 269;
- 11          (15)   Integrated tax information management systems special
- 12                    fund under section 231-3.2;
- 13          (16)   Emergency and budget reserve fund under section
- 14                    328L-3;
- 15          (17)   Public schools special fees and charges fund under
- 16                    section 302A-1130(f);
- 17          (18)   Sport fish special fund under section 187A-9.5;
- 18          (19)   Neurotrauma special fund under section 321H-4;
- 19          (20)   Center for nursing special fund under section [†]304A-
- 20                    2163[†];
- 21          (21)   Passenger facility charge special fund established by
- 22                    section 261-5.5;



- 1 (22) Court interpreting services revolving fund under
- 2 section 607-1.5;
- 3 (23) Trauma system special fund under section 321-22.5;
- 4 (24) Hawaii cancer research special fund;
- 5 (25) Community health centers special fund; [~~and~~]
- 6 (26) Emergency medical services special fund[+]; and
- 7 (27) Long-term care benefits trust fund under section
- 8 346C-5;

9 shall be responsible for its pro rata share of the  
 10 administrative expenses incurred by the department responsible  
 11 for the operations supported by the special fund concerned.[+]"

12 SECTION 6. Section 235-61, Hawaii Revised Statutes, is  
 13 amended by amending subsection (c) to read as follows:

14 "(c) For each withholding period (whether weekly,  
 15 biweekly, monthly, or otherwise) the amount of tax to be  
 16 withheld under this section shall be at a rate which, for the  
 17 taxable year, will yield the tax imposed by [~~section~~] sections  
 18 235-51 and 235-B upon each employee's annual wage, as estimated  
 19 from the employee's current wage in any withholding period, but  
 20 for the purposes of this subsection of the rates provided by  
 21 section 235-51 the maximum to be taken into consideration shall  
 22 be eight per cent[+] plus the tax imposed under section 235-B.



1 The tax for the taxable year for the purposes of section 235-51  
2 shall be calculated upon the following assumptions:

3 (1) That the employee's annual wage, as estimated from the  
4 employee's current wage in the withholding period,  
5 will be the employee's sole income for the taxable  
6 year;

7 (2) That there will be no deductions therefrom in  
8 determining adjusted gross income;

9 (3) That in determining taxable income there shall be a  
10 standard deduction allowance which shall be an amount  
11 equal to one exemption (or more than one exemption if  
12 so prescribed by the director) unless (A) the taxpayer  
13 is married and the taxpayer's spouse is an employee  
14 receiving wages subject to withholding, or (B) the  
15 taxpayer has withholding exemption certificates in  
16 effect with respect to more than one employer. For  
17 the purposes of this section, any standard deduction  
18 allowance under this paragraph shall be treated as if  
19 it were denominated a withholding exemption;

20 (4) That in determining taxable income there also will be  
21 deducted the amount of exemptions and withholding  
22 allowances granted to the employee in the computation



1 of taxable income, as shown by a certificate to be  
 2 filed with the employer as provided by subsection (f);  
 3 and

4 (5) If it appears from the certificate filed pursuant to  
 5 subsection (f) that the employee, under section 235-  
 6 93, is entitled to make a joint return, that the  
 7 employee and the employee's spouse will so elect."

8 SECTION 7. Section 346C-2, Hawaii Revised Statutes, is  
 9 amended to read as follows:

10 "[+]§346C-2[+] **Long-term care financing program;**  
 11 **establishment.** There is established the long-term care  
 12 financing program, which shall be placed with the department of  
 13 budget and finance for administrative purposes. The purpose of  
 14 this program shall be to provide a universal and affordable  
 15 system of providing for long-term care. The program shall be  
 16 administered by a board of trustees. The program shall be  
 17 implemented under part of chapter 235."

18 SECTION 8. Section 346C-4, Hawaii Revised Statutes, is  
 19 amended to read as follows:

20 "[+]§346C-4[+] **Fiduciary and other obligations of the**  
 21 **board of trustees[-]; obligations of the third party**  
 22 **administrator; rules.** (a) The board of trustees shall:



- 1           (1) Have and maintain a fiduciary obligation for the  
2                    program;
- 3           (2) Discharge their duties solely in the best interest of  
4                    the program;
- 5           (3) Not knowingly participate in or undertake to conceal  
6                    an act or omission of a trustee, when the act or  
7                    omission is known to be a breach of fiduciary  
8                    responsibility; or fail to discharge specific  
9                    fiduciary responsibilities in a manner that enables  
10                  another trustee to commit a breach; or having  
11                  knowledge of a breach, fail to take whatever action  
12                  that is reasonable and appropriate under the  
13                  circumstances to remedy the breach;
- 14          (4) Act with the care, skill, prudence, and diligence  
15                  under the circumstances then prevailing, that a  
16                  prudent trustee, acting in a like capacity and  
17                  familiar with similar matters would use in conducting  
18                  an enterprise of similar character and purpose; ~~and~~
- 19          (5) Establish a procedure to allow individuals to  
20                  voluntarily pay the long-term care income tax under  
21                  section 235-B, who otherwise, by reason of receiving  
22                  compensation in the form of pension, social security,



1           or amounts of interest, dividends, or other income,  
2           are not required to file a tax return; and

3           ~~[(5)]~~ (6) Maintain proper books of accounts and records of  
4           the administration of the program.

5           (b) The board of trustees may contract with a qualified  
6           entity to administer the program or to process claims for  
7           ~~[benefit payments,]~~ the defined benefit, or both~~;~~ ~~provided that~~  
8           ~~the entity shall be appropriately licensed under chapter 431].~~  
9           Selection of the entity shall be subject to chapter 103D;  
10          provided that ~~[the insurance commissioner shall advise the board~~  
11          ~~of trustees in selection of the entity.]~~ in addition to other  
12          customary duties, the entity shall ensure against fraud and  
13          abuse in claims for and payment of defined benefits.

14          (c) ~~[In lieu of subsection (b), the board of trustees may~~  
15          ~~contract with a qualified entity to assume the risk of~~  
16          ~~underwriting loss under the program at a capitated rate of~~  
17          ~~payment to the entity. The entity shall be appropriately~~  
18          ~~licensed under chapter 431 and adequately capitalized.~~  
19          ~~Selection of the entity shall be subject to chapter 103D;~~  
20          ~~provided that the state insurance commissioner shall advise the~~  
21          ~~board of trustees in the selection of the entity. An entity~~  
22          ~~selected under this subsection shall perform the functions under~~



1 ~~subsection (b), in addition to assuming the risk.]~~ The entity  
2 contracted under subsection (b) shall implement procedures to  
3 safeguard the confidentiality of information in its possession;  
4 provided that the entity may disclose information obtained under  
5 section 235-J and information pertaining to the taxpayer's  
6 vesting status solely to the taxpayer who has paid the long-term  
7 care income tax, the taxpayer's spouse, or the taxpayer's  
8 designated representative as indicated by a general power of  
9 attorney or a designated agent as indicated by a power of  
10 attorney for health care.

11 (d) Subject to the limitations of this chapter, the board  
12 of trustees, from time to time, shall adopt rules for the  
13 administration of the long-term care benefits trust fund and the  
14 transaction of business."

15 SECTION 9. Section 346C-5, Hawaii Revised Statutes, is  
16 amended by amending the title and subsections (a) and (b) to  
17 read as follows:

18 "[~~§~~§346C-5~~]~~ **Long-term care benefits trust fund.** (a)  
19 There is established in the state treasury the long-term care  
20 benefits trust fund, into which shall be deposited moneys  
21 collected as long-term care taxes. The department of budget and  
22 finance shall deposit the moneys in federally insured financial



1 institutions in Hawaii to preserve the balance and ensure a  
2 reasonable return under prevailing interest rates. Investments  
3 of the moneys may be made subject to the requirements of this  
4 chapter.

5 (b) Expenditures from the fund shall be made solely for  
6 the purpose of [~~making benefit payments~~] paying defined benefits  
7 under section 235-F and the cost of administration."

8 SECTION 10. Section 346C-6, Hawaii Revised Statutes, is  
9 amended by amending subsection (a) to read as follows:

10 "(a) With the advice of the director of finance to ensure  
11 investment soundness, the board of trustees shall invest moneys  
12 in the long-term care benefits trust fund in investments with  
13 sufficient liquidity to allow market transactions to meet  
14 expected payout requirements without substantial loss in value  
15 or unreasonable delay. The board of trustees shall invest  
16 solely in:

17 (1) Obligations of any of the following classes:

18 (A) Obligations issued or guaranteed as to principal  
19 and interest by the United States or by any state  
20 thereof or by any municipal or political  
21 subdivision or school district of any of the  
22 foregoing; provided that the principal of and



1 interest on such obligations are payable in  
2 currency of the United States, or sovereign debt  
3 instruments issued by agencies of, or guaranteed  
4 by foreign governments;

5 (B) Revenue bonds, whether or not permitted by any  
6 other provision hereof, of the State or any  
7 political subdivision thereof, including the  
8 board of water supply of the city and county of  
9 Honolulu, and street or improvement district  
10 bonds of any district or project in the State;  
11 and

12 (C) Obligations issued or guaranteed by any federal  
13 home loan bank including consolidated federal  
14 home loan bank obligations, the Home Owner's Loan  
15 Corporation, the Federal National Mortgage  
16 Association, or the Small Business  
17 Administration;

18 (2) Obligations eligible by law for purchase in the open  
19 market by federal reserve banks; and

20 (3) Securities and futures contracts in which in the  
21 informed opinion of the board of trustees it is  
22 prudent to invest funds of the system, including



1           currency, interest rate, bond, and stock index futures  
2           contracts and options on such contracts to hedge  
3           against anticipated changes in currencies, interest  
4           rates, and bond and stock prices that might otherwise  
5           have an adverse effect upon the value of the system's  
6           securities portfolios; covered put and call options on  
7           securities; and stock; whether or not the securities,  
8           stock, futures contracts, or options on futures are  
9           expressly authorized by or qualify under the foregoing  
10          paragraphs, and notwithstanding any limitation of any  
11          of the foregoing paragraphs[; and

12          ~~(4) Any other investments deemed secure on the advice of~~  
13          ~~the state director of finance]."~~

14          SECTION 11. Section 346C-7, Hawaii Revised Statutes, is  
15          amended to read as follows:

16          "**[+]§346C-7[+] Annual audits of the long-term care**  
17          **benefits trust fund.** The auditor shall conduct an audit of the  
18          long-term care benefits trust fund annually for the first three  
19          years from the date the fund first receives deposits, and every  
20          three years thereafter; provided that the auditor may modify the  
21          time periods after the first three years as appropriate to the



1 circumstances. The auditor shall publish a report of the  
2 results of every audit, including any recommendations."

3 SECTION 12. The long-term care benefits trust fund shall  
4 reimburse the general fund, after a period of five years from  
5 July 1, 2009, for the amount of any legislative appropriation  
6 for start-up costs of the fund and for the administration of  
7 this Act, whether the appropriation is made in this Act or  
8 subsequent acts.

9 SECTION 13. There is appropriated out of the general  
10 revenues of the State of Hawaii the sum of \$500,000, or so much  
11 thereof as may be necessary for fiscal year 2007-2008, for  
12 start-up costs to collect the long-term care income tax.

13 The sum appropriated shall be expended by the department of  
14 taxation.

15 SECTION 14. There is appropriated out of the general  
16 revenues of the State of Hawaii the sum of \$400,000, or so much  
17 thereof as may be necessary for fiscal year 2007-2008, for  
18 start-up costs to administer the long-term care income tax under  
19 chapter 346C, Hawaii Revised Statutes.

20 The sum appropriated shall be expended by the department of  
21 budget and finance.



# H.B. NO. 1074

1 SECTION 15. In codifying the new sections added by  
 2 section 1 of this Act and referenced throughout this Act, the  
 3 revisor of statutes shall substitute appropriate section numbers  
 4 for the letters used in designating the new sections in this  
 5 Act.

6 SECTION 16. Statutory material to be repealed is bracketed  
 7 and stricken. New statutory material is underscored.

8 SECTION 17. This Act shall take effect on July 1, 2007,  
 9 and shall apply to taxable years beginning after December 31,  
 10 2008.

11

INTRODUCED BY:

*Calvin K. Boy*  
 \_\_\_\_\_  
 JAN 22 2007



**Report Title:**

Long-Term Care Income Tax; Tax Credit

**Description:**

Establishes a long-term care income tax to pay for long-term care benefits. Establishes a long-term care income tax credit for amounts paid for the purchase of long-term care insurance. Clarifies that long-term care taxes are not state funds. Makes appropriations.

