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STATE OF HAWAII
DEPARTMENT OF TAXATION

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DEPUTY DIRECTOR

**TESTIMONY OF
GARY S. SUGANUMA, DIRECTOR OF TAXATION**

TESTIMONY ON THE FOLLOWING MEASURE:

H.B. No. 1364, Relating to Tax Credits

BEFORE THE:

House Committee on Economic Development

DATE: Wednesday, February 8, 2023

TIME: 10:15 a.m.

LOCATION: State Capitol, Room 423

Chair Holt, Vice-Chair Lamosao, and Members of the Committee:

The Department of Taxation ("Department") offers the following comments regarding H.B. 1364 for your consideration.

H.B. 1364 amends section 235-55.85, Hawaii Revised Statutes (HRS), by: (1) renaming the section to "food/excise tax credit"; (2) removing the term "refundable"; (3) prohibiting the use of the tax credit to offset any tax liability under HRS Title 14; (4) deleting language that would permit taxpayers to "claim" the credit; (5) removing standard requirement language in subsections (e) and (f); and (6) making the credit available to individual taxpayers who file a state income tax return for the taxable year.

The measure, upon approval, is effective on January 1, 2024, and applies to taxable years beginning after December 31, 2023.

First, the Department notes that, based on the bill description, it appears that the intent of the bill is to authorize the Department to issue the food/excise tax credit to eligible taxpayers without requiring taxpayers to claim the credit. The amendments to section 235-55.85, HRS, however, do not provide a mechanism for the Department to provide the credit to taxpayers, as language allowing the Department to apply the credit against a taxpayer's tax liability or provide a refund of any excess over liability has been deleted. The Department recommends restoring the provisions allowing the credit to be

Department of Taxation Testimony
H.B. 1364
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refundable, including the reference to “refundable” in subsection (a) and all of subsection (e).

The Department further notes that disallowing the credit to offset any tax liability under title 14, including income tax, may create confusion for taxpayers, as the taxpayer may receive a billing notice for taxes owed, including income tax, and will question why the Department did not use the credit to offset the tax liability. This is what the Department experienced with the 2022 Constitutional tax refund. The Department therefore recommends deleting the provision in section 235-55.85(a) that the tax credit “shall not be used to offset any tax liability under title 14 of the taxpayer” and restoring the provision in that same section that allows the credit to be applied against the taxpayer’s individual income tax liability for the taxable year for which the individual income tax return is being filed.

Finally, the Department notes that, with the recommended amendments, the Department will be able to administer this bill by the current effective date.

Thank you for the opportunity to provide comments on this measure.



Hawai'i Children's Action Network Speaks! is a nonpartisan 501c4 nonprofit committed to advocating for children and their families. Our core issues are safety, health, and education.

To: House Committee on Economic Development

Re: **HB 1364 – Relating to Tax Credits**

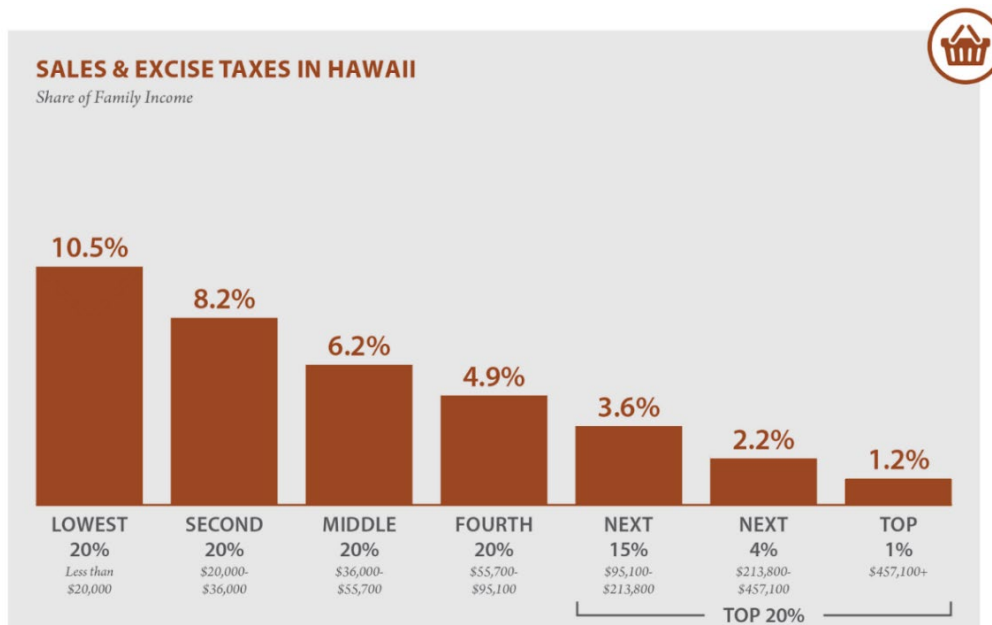
Hawai'i State Capitol, Via Videoconference & Conference Room 423
February 8, 2023, 10:15 AM

Dear Chair Holt, Vice Chair Lamosao, and Committee Members,

On behalf of Hawai'i Children's Action Network Speaks!, I am testifying in **in OPPOSITION to HB 1364**, relating to tax credits. This bill would make the food/excise tax credit non-refundable.

It is well known that Hawai'i has the highest cost of living in the nation,¹ and one of the main contributing factors is our high cost of food. Meanwhile, Hawai'i is one of only 13 states that taxes groceries.²

Our state's General Excise Tax (GET) is applied to nearly all goods and services in Hawai'i. As a result, it hits our low-income and working-class families harder because they spend almost all of their earnings on goods and services that are taxed by the GET. That means that Hawai'i families who earn less than \$20,000 per year pay almost nine times as much of their income in the GET than those who make over \$450,000.³



¹ Bureau of Economic Analysis, <https://www.bea.gov/data/prices-inflation/regional-price-parities-state-and-metro-area>

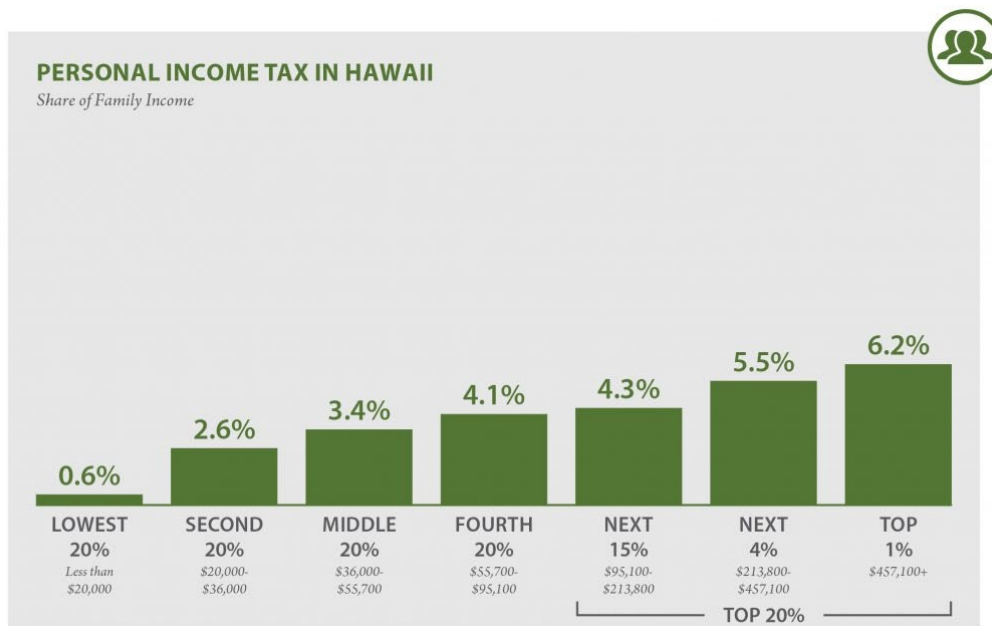
² Tax Foundation, <https://taxfoundation.org/sales-tax-grocery-tax-exemptions/>

³ Institute on Taxation and Economic Policy, <https://itep.org/whopays/hawaii/>

Hawai'i's Refundable Food Excise Tax Credit is meant to refund the some of the GET that's paid by lower to middle-income people. The less a worker earns, the more they can get back. And the larger a family is, the more credits they can claim.

The credit's refundability is what makes it so effective. Refundability means that if a family qualifies for a tax credit that's LARGER than what they owe in taxes, they get the extra amount back as a TAX REFUND. Unfortunately, this bill would remove the refundability of the credit, which would result in lower-income families no longer being able to receive the full amount of the credit that qualify for.

For example, the average income of a family in the bottom fifth of the income spectrum earns about \$13,000 per year.⁴ They pay over 10% of their income in GET, but only about 0.6% in personal income taxes.⁵ If that family consists of a mother and one child, they qualify for a food/excise tax credit of \$220, but they owe only about \$78 in personal income taxes. With a refundable credit, they receive a tax refund of \$142, which effectively gets back to them the GET that they've paid. But if the credit were to become non-refundable, as this bill proposes, they would no longer be able to get that tax refund.



In other words, this bill would take away much of the food/excise tax credit from those families who need it the most. Mahalo for the opportunity to provide this testimony. Please defer this bill.

Thank you,

Nicole Woo

Director of Research and Economic Policy

⁴ Unpublished analysis by the Institute on Taxation and Economic Policy, January 2022

⁵ Institute on Taxation and Economic Policy, <https://itep.org/whopays/hawaii/>

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME TAX, Rename, Make Nonrefundable, and Allow Automatic Issuance of Food/Excise Tax Credit

BILL NUMBER: HB 1364

INTRODUCED BY: YAMASHITA

EXECUTIVE SUMMARY: Renames the refundable food/excise tax credit and makes the credit nonrefundable. Authorizes the Department of Taxation to issue the tax credit to taxpayers annually rather than requiring taxpayers to file for the credit.

SYNOPSIS: Amends section 235-55.85, HRS. Renames the credit the “Food/Excise Tax Credit” (deleting the word “Refundable”). Makes the credit nonrefundable.

Clarifies that the credit is only allowed for an individual taxpayer who files a state income tax return for the taxable year. Failure to comply with the filing requirement constitutes a waiver of the right to claim the credit.

EFFECTIVE DATE: January 1, 2024, applicable to taxable years beginning after December 31, 2023.

STAFF COMMENTS: There are some issues to consider with refundable credits targeted at low-income and homeless people generally.

First, a tax return is one of the most complicated documents for government agencies to process. The administrative costs associated with each one can quickly make heads spin. Furthermore, as the U.S. Treasury has experienced with the Earned Income Tax Credit, the combination of complexity and a refundable credit result in a certain percentage of improper payouts, some due to mistake or misunderstanding, and some due to bad actors.

Second, the credit comes in a tax refund which is paid, at the earliest, in the early part of the year after the tax return filer needs the relief. A person who qualifies for the credit in 2023, for example, won’t get a check until early 2024. (And, because the bill changes this to a nonrefundable credit, there may be no check.)

Third, as a policy matter, lawmakers might prefer that the recipient of the refund not use the money obtained on certain things, illegal drugs for example. But the tax system contains no way of restricting the uses of a refund check; other departments do have systems in place to give some assurance that the payment will go toward legitimate living expenses such as groceries (EBT, for example).

The better solution is to get such people out of the tax system entirely. They receive peace of mind because they don’t have to worry about tax returns, and the department doesn’t have to

Re: HB 1364

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worry about processing those returns. If additional relief to such people is considered desirable, it can be delivered through the agencies that are better equipped to do so.

Digested: 2/6/2023



HAWAII APPLESEED

CENTER FOR LAW & ECONOMIC JUSTICE

Testimony of Hawai‘i Appleseed Center for Law and Economic Justice
In Opposition to [HB 1364] – Relating to Tax Credits
House Committee on Economic Development
Wednesday, February 8, 2023, 10:15 AM, conference room 423

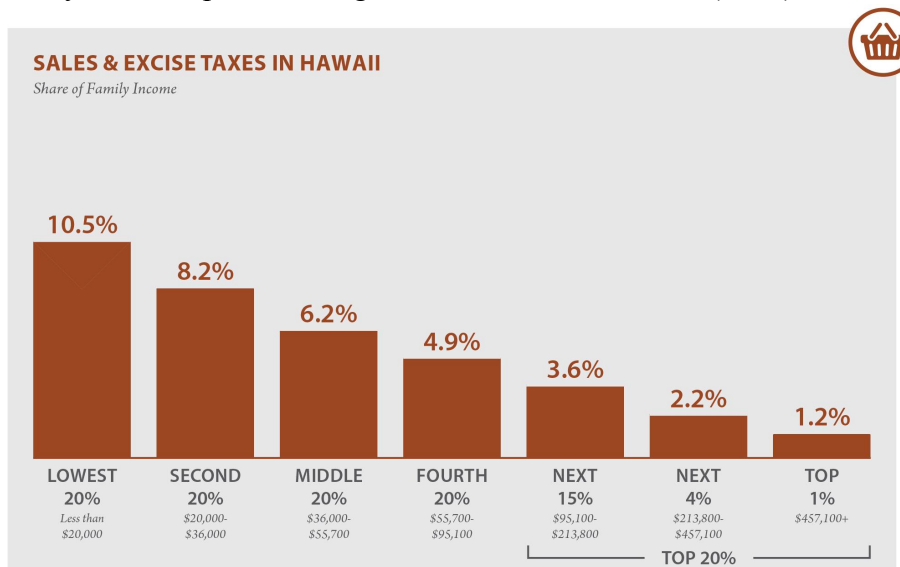
Dear Chair Holt, Vice Chair Lamosao, and members of the Committee:

Thank you for the opportunity to testify in **opposition** to HB 1364, which would rename the Refundable Food/Excise Tax Credit and make it non-refundable.

The Refundable Food/Excise Tax Credit helps to offset the burden that the regressive General Excise Tax (GET) imposes on Hawai‘i’s residents with low incomes, and it was the state’s most commonly claimed tax credit in 2020—appearing on 254,262 individual income tax returns.¹

Hawai‘i is one of seven states that taxes groceries at the same rate as other goods, and this tax disproportionately affects taxpayers on the lower end of the income scale. The cost of groceries in Hawai‘i has continued to rise in recent years; between November of 2021 and November of 2022, food prices in Honolulu increased by 8.2%.²

Share of family income spent on the general excise tax, Hawai‘i (2018)³



¹ “Tax Credits Claimed by Hawaii Taxpayers,” Department of Taxation, 2022.

<https://files.hawaii.gov/tax/stats/stats/credits/2020credit.pdf>

² “Consumer Price Index, Honolulu Area — November 2022,” U.S. Bureau of Labor Statistics, 2022.

https://www.bls.gov/regions/west/news-release/consumerpriceindex_honolulu.htm

³ “Hawaii: Who Pays? 6th Edition,” Institute on Taxation and Economic Policy, 2018.

<https://itep.org/whopays/hawaii/>

As illustrated by the data, Hawai‘i’s lowest-income families spend 10.5% of their income on the GET, compared to 1.2% of the income for the top 1%. This nearly 10-to-1 disparity makes it substantially more difficult for low-income families to afford food and other necessities.

Since the Refundable Food/Excise Tax Credit is refundable, it also benefits taxpayers who have little to no tax liability—typically those earning the lowest incomes. Therefore, making the credit non-refundable would be unambiguously detrimental to this group. We believe that the refundability of the Food/Excise Tax Credit is crucial to maintaining its full value for the lowest-income families, and this aspect of the program should be preserved.



Committee on Economic Development
Chair Holt, Vice Chair Lamosao

Date February 8, 10:15 am, Videoconference/Room 423
NUMBER OF BILL HB 1364 — RELATING TO TAX CREDITS

TESTIMONY

Beppie Shapiro, Legislative Committee, League of Women Voters of Hawaii

Chair Holt, Vice Chair Lamosao, and Committee Members:

The League of Women Voters of Hawaii opposes HB1364, which would make the food/excise tax credit non-refundable.

The League of Women Voters evaluates a tax policy as to whether it promotes equity and progressivity. The food/excise tax credit helps to make Hawaii's regressive tax system more progressive, by providing a credit to tax-filers with incomes under \$50,000 per household per year. People with incomes that low really struggle to survive in Hawaii, as everyone here can well imagine.

But part of that group is composed of people at the very very lowest economic level, so low that they don't owe ANY income tax, or so low that their tax bill is under \$100/year. However people in that group are surviving, they do have to eat, so they pay the food/excise tax. (As we know, due to the structure of the excise tax, they are probably paying the accumulated tax of all the up-stream grocery system in Hawaii.)

The amount of tax credit these very poorest people receive is minimal (\$100-\$110 per household per year) in terms of the impact on the State budget. But its impact on people living at this economic level is far greater. It's a month's bus pass; or a week's food budget; It seems grossly unfair to remove the refundable credit .

Please defer this bill.

Thank you for the opportunity to submit testimony.

League of Women Voters of Hawaii
P.O. Box 235026 ♦ Honolulu, HI 96823
Voicemail 808.377.6727 ♦ my.lwv.org/hawaii ♦ voters@lwvhi.org

HB-1364

Submitted on: 2/6/2023 2:09:44 PM

Testimony for ECD on 2/8/2023 10:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Mark Van Horne	Individual	Oppose	Written Testimony Only

Comments:

I oppose HB1364 because making the EITC nonrefundable will hurt our lower-income households.

HB-1364

Submitted on: 2/6/2023 4:42:12 PM

Testimony for ECD on 2/8/2023 10:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Thomas Brandt	Individual	Oppose	Written Testimony Only

Comments:

Strongly OPPOSE.

Food tax credit should be increased AND continue to be fully refundable.

Mahalo

HB-1364

Submitted on: 2/6/2023 6:22:08 PM

Testimony for ECD on 2/8/2023 10:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Will Caron	Individual	Oppose	Written Testimony Only

Comments:

I strongly oppose HB1364, which would make the state's food/excise income tax credit nonrefundable. This would significantly weaken the effectiveness of this credit in alleviating food insecurity for the lowest income households in Hawai'i.

Refundable tax credits like the current food/excise income tax credit deliver the full value of the credit in the form of a refund to households with tax liabilities smaller than the credit amount to which they are entitled. Changing any tax credit to make it nonrefundable means that the lowest-income households with very small tax liabilities will get a smaller credit amount than families with larger incomes and larger liabilities.

Since the goal of these working family tax credits is to help the lowest-income households, this change would mean that the credit is no longer achieving its full purpose. Please defer HB1364.